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Report
99-369

FEDERAL-AID HIGHWAY ACT OF 1986

REPORT

OF THE

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

TO ACCOMPANY

S. 2405

August 5 (legislative day, August 4), 1986.—Ordered to be printed

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Mr. Symms, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 2405]

The Committee on Environment and Public Works, to which was referred the bill (S. 2405) to authorize appropriations for certain highways in accordance with title 23, United States Code, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

General Statement

The Surface Transportation Assistance Act of 1982 (STAA of 1982) was enacted on January 6, 1983 as Public Law 97-424. This major legislation provided authorizations for the Interstate System construction program through fiscal year 1990 and all other Federal-aid highway categories through fiscal year 1986. In order to distribute the States' Federal-aid highway apportionments on schedule beginning in fiscal year 1987, the Federal-aid highway program must be reauthorized by October 1, 1986.

Last summer the Subcommittee on Transportation of the Environment and Public Works Committee began holding hearings on the reauthorization of the Federal-aid highway program. A total of 10 hearings were held from July 10, 1985 through May 20, 1986. S. 2405, the Federal-Aid Highway Act of 1986, was introduced on May 6, 1986 by Senator Symms with Senators Stafford, Bentsen, Burdick and Abdnor cosponsoring. The bill provides authorizations for the Federal-aid highway program for fiscal years 1986 through 1990 for all 50 States, the District of Columbia, Puerto Rico, and the Territories.

S. 2405, as reported by the Committee, provides $52,387,600,000 in new authorizations for the highway program from the Highway Account of the Highway Trust Fund over the next four years.

This level of authorization continues to be made possible in part by the increased gas tax revenues authorized by the STAA of 1982. During the past four years the highways and bridges around the country have benefited from increased funding. The Department of Transportation's (DOT) latest status report on the condition of the nation's highways shows that the steady decline in the pavement quality of the highway system prior to 1982 has been stopped. The report attributes this turnaround to the increased funding levels of the 1982 Act and the gas tax increase. The new authorizations in S. 2405 will continue to improve the quality of this country's highways and bridges.

S. 2405 sets an annual obligation limitation of $12.350 billion for the Federal-aid highway program from fiscal year 1986 through 1990. In addition, two categories, Emergency Relief and Minimum Allocation, are not subject to the obligation ceiling. Spending in these two categories is estimated to be $800 million per year. Over the four-year period, states will be able to obligate $52.6 billion, the total amount authorized by S. 2405. It is important that new authorizations not exceed the amount states are permitted to obligate each fiscal year. In recent years, authorizations have surpassed states' obligation limitation with the result that States have approximately $6 billion in apportionments from previous years which they are not allowed to spend.

This year marked the 30th anniversary of the creation of the Highway Trust Fund and the beginning of the National System of Interstate and Defense Highways. The Interstate construction program has profoundly changed transportation patterns in this country. After 30 years and $112 billion, the Interstate System is essentially complete, and it is time to direct attention and limited resources to other parts of the highway program which have been neglected. It is important to complete the Interstate System by 1990; until then major program changes or apportionment formula changes should not be made nor can the future Federal responsibility for the highway program be determined.

In order to both complete the Interstate System by 1990 and to provide the States with flexibility, S. 2405 provides a combined Interstate-primary category funded at $8.15 billion per year. This combined category will enable States to determine their own priorities.

One of the most important provisions of S. 2405 is the administrative release mechanism for Interstate construction and Interstate substitute funds. Congress will no longer need to approve the Interstate Cost Estimate (ICE) or Interstate Substitute Cost Estimate (ISCE) in order for the Department of Transportation to apportion Interstate construction and Interstate substitute funds each October 1. States have experienced serious disruptions to their Interstate construction program during the past few years because Congress has been unable to approve the ICE on time. This bill ensures a stable, reliable resource of Interstate construction and substitute funds for the States.

S. 2405 also continues a strong Federal participation in the Bridge, Secondary Urban, Safety, Minimum Allocation, Interstate Substitution, Federal Lands, and Emergency Relief programs.

With highway needs continuing to grow and with limited revenues, it is important to provide the States with as much flexibility in spending available funds as possible. The bill provides additional flexibility in several areas including total transfer among Interstate construction, Interstate 4R and primary funds; a transfer of up to 50 percent between urban and secondary program funds; the use of Interstate substitute highway funds on any public road; extension of availability of Interstate construction funds to four years and Interstate substitute funds to two years; permission for States to use a State funded bridge program as matching funds for their Federal-aid bridge program; permission for up to 10 States to participate in a demonstration block grant program; restoration to the states of a choice of using cash compensation or amortization to remove billboards; and incentives for right-of-way donations from the private sector.

S. 2405 also provides for several new programs which will improve the effectiveness of the Federal-aid highway program. These include the combined Interstate-primary category; the Strategic Highway Research Program (SHRP), a major new research initiative; the block grant demonstration program; incentives for private sector participation in Federal-aid highway projects; and the planting of wildflowers along highway rights-of-way.

S. 2405 furnishes the necessary long term funding for the Federal-aid highway program and will permit the States to do planning essential for effective and beneficial highway projects.

Major Provisions

INTERSTATE-PRIMARY CATEGORY CONSOLIDATION

Work on the Interstate System began 30 years ago and is now essentially complete. It is of the utmost importance for the Interstate construction program to be completed by 1990.

There are 41,329 miles of the 42,500-mile Interstate System open to traffic, making the network over 97 percent complete. So far $112 billion in State and Federal funds have been spent. Ten states have completed their Interstate System and an additional 15 States have less than one-half percent of their share of the System to complete.

However, as long as there is an Interstate construction category based on a cost-to-complete formula with a 90 percent Federal match, there will be ongoing pressure to add new Interstate segments. Rather than have investment decisions made on the basis of a large Federal cost share, the flexibility contained in section 119 will allow States to consider Interstate 4R or primary projects, where those are more pressing transportation needs.

According to *The Interstate Highway System: Issues and Options,* a report done by the Congressional Budget Office in 1982, many of the remaining Interstate segments are of local or regional rather than national benefit.

The bill consolidates funding for the Interstate and Primary Systems by creating a new Interstate-primary program. The combined program is authorized at $8.15 billion per year, with $3.0 billion apportioned under a formula based on an administratively adjusted Interstate Cost Estimate, $2.8 billion based on the existing Interstate 4R formula, and $2.35 billion based on the existing primary formula. States will be able to use these funds on any combination of Interstate, 4R, or primary projects they choose. The required State matching share will be determined by the system the project is on.

This consolidation was adopted to achieve several objectives. A majority of States have completed or nearly completed their portions of the Interstate. The priorities for these States will be their other road systems or repair and reconstruction of Interstate segments that have come to the end of their design life. The consolidated program will permit these States to use their apportionments for these highway priority projects.

There are several States that still have substantial Interstate projects to complete. The consolidated program will allow these States to use primary as well as Interstate funds on these projects without the disincentive of reducing future Interstate construction apportionments.

The bill also extends the availability of Interstate construction funds from two years to four years. It discontinues the $300 million Interstate construction discretionary fund and apportions these funds among all the States.

Finally, the bill continues to apportion one-half percent of the $3 billion authorized for distribution under the ICE formula to each State that has completed its Interstate System or has less than one-half percent of the national cost of completion remaining. Continuation of the minimum one-half percent apportionment is a fair method to deal with the States that took seriously the national directive to place top priority on construction of the Interstate System and concentrated resources on that System early in the program's history, often at the expense of other roads.

Beginning in the late 1970's, Congress became concerned about the deterioration of many segments of the National System of Interstate and Defense Highways. The backlog of repair and reconstruction needs on these roads was growing at a very significant rate. To address the problem, Congress began to fund what was initially called the 3R program for the Interstate System and was later modified to include a fourth "R"—for reconstruction. These funds were apportioned initially to the states based upon a formula consisting of lane miles and vehicle miles traveled on segments open to traffic for more than five years.

In 1981 a major effort was begun to change the formula for distributing 4R funds, and a new formula was put in place by the Federal-Aid Highway Act of 1981. Because of another effort made in the STAA of 1982 to change the Interstate 4R formula, the Senate proposed, and the Act authorized, a study in section 137 directing the Secretary to examine several different factors which could be used to determine the best 4R formula.

Congress in December 1983 received the study mandated by the STAA of 1982. The study concluded that any formula which is developed should be based on needs and be directly related to the goal of preservation of the system. The study also concluded that the current Interstate 4R formula strongly correlates with the criteria of need, national benefit and national defense and has a direct link to the needs and purposes of the Interstate System. Finally, the study determined that there is no compelling argument for changing the existing formula.

It is not an appropriate time to change the formula for apportionment of Interstate 4R funds. The existing formula is meeting the needs of the States and providing adequate resources for the restoration, rehabilitation, resurfacing and reconstruction of the Interstate System. The Commmittee will strongly oppose any change in the Interstate 4R formula. A review of apportionment formulas is not appropriate until the Interstate System is completed and the future federal interest in the highway program is determined.

The installation of fiber optics telecommunications cables within Interstate highway rights-of-way presents States with important economic development opportunities. While unlimited access to Interstate rights-of-way by every utility is not desirable, it appears that benefits might be able to be obtained by accommodating fiber optic cables without a negative effect on traffic or safety. DOT is presently conducting a review of the current restrictions on the use of Interstate rights-of-way and has recently approved the State of New York's request to install a fiber optic cable along a segment of the New York Thruway. The Committee recommends that DOT complete its review as expeditiously as possible. In making the determination as to whether fiber optic cables should be permitted along the Interstate System, the Secretary should give full consideration to the unique and unobtrusive characteristics of fiber optic installation and its benefits.

INTERSTATE COST ESTIMATE AND INTERSTATE SUBSTITUTE COST ESTIMATE APPROVAL

On October 1, at the beginning of each Federal fiscal year, the Department of Transportation apportions highway funds to the States. The STAA of 1982 continued in law the requirement that an ICE be approved by Congress before apportionment of Interstate construction funds. In addition, the 1982 Act contained a new provision mandating congressional approval of an ISCE before distribution of Interstate substitute funds could take place.

Over the past several years, the need for additional investments in our transportation infrastructure and the equally critical need for timely apportionment of available funding have become apparent. With passage of the STAA of 1982, funding for the Federal-aid highway program increased by more than 50 percent, beginning with fiscal year 1983. Highway users, in turn, have been paying higher taxes to finance that increased spending.

In order to address the pressing rehabilitation and construction needs on our highway system and assure that user fees paid by the motoring public are put to work in meeting those needs, states must have long-range funding security to sensibly plan large Interstate projects and Interstate substitute initiatives. The Senate has repeatedly recognized that need by passing long-term ICE and ISCE legislation in 1983, 1984, and 1985.

Approximately $12 billion in Interstate construction funds and $2.6 billion in Interstate substitute funds will be made available over the four year authorization period of this legislation.

In recent years, there have been lengthy, vexing delays in winning congressional approval of the ICE and ISCE. ICE and ISCE approvals should be done in a routine and timely way, but all too often extraneous issues have made that impossible. It is important that Interstate construction, Interstate substitute, and the 85 percent minimum allocation funds be made available to the States on schedule at the beginning of each fiscal year. The reported bill includes a mechanism to guarantee that States receive their previously-authorized funding at the start of each fiscal year.

The Interstate construction portion of funds will be apportioned over the next four years by means of the approved 1985 ICE, with the Secretary providing necessary administative adjustments. Prior to apportioning the Interstate construction funds on October 1, the Secretary is directed to make administrative adjustments to the 1985 ICE. These include an adjustment for all previous credits, apportionments of Interstate construction funds and lapses of previous apportionments of Interstate construction funds; previous withdrawals of Interstate segments; previous allocations of Interstate discretionary funds; and transfers of Interstate construction funds. After the Secretary has adjusted the 1985 ICE and each State's apportionment factor is determined, the Secretary is to use this factor to apportion Interstate construction funds for each year from fiscal year 1987 through fiscal year 1990. No further adjustments will be made to the ICE table.

The legislation also provides for permanent approval of the ISCE. Before apportioning the Interstate substitute funds, the Secretary is directed to make administrative adjustments each year to the 1985 ISCE from fiscal year 1987 through fiscal year 1990. These adjustments include changes in the amounts available to the Secretary; changes in the State estimates in the division of funds between substitute highway and transit projects; approval of substitute projects; and the allocation and apportionment of substitute highway funds in prior fiscal years. It is expected that the Interstate substitution program will be extended beyond the date authorized in this legislation in order for eligible States to receive the full amount of their entitlements.

OBLIGATION LIMITATION

Section 133 provides an obligation limitation for the Federal-aid highway program. Most federal programs are subject to an annual review by the appropriations process. Highway projects have a multi-year planning, design and construction horizon which makes an annual appropriation impractical. Therefore, unlike other Federal programs, highway programs are approved and funds are made available for a two year or longer period of time. In order to make the highway program responsive to fluctuating fiscal stitutions and prevailing economic policy, an obligation limitation is imposed prescribing the amount of funds that can be obligated each fiscal year. The limitation does not reduce the total authorization of funds nor specify which projects receive funds. The limitation has the effect of controlling the outlays in a specific year and, therefore, controlling the cash outflow from the Highway Trust Fund.

The Federal-Aid Highway Act of 1986, recognizes the fact that there is a strong need to address the federal deficit. The focus must be on outlays because they represent actual spending. Because the Federal Government operates under a unified budget, the outlays from all sources including the Highway Trust Fund, are compared to income from all sources to determine the government's fiscal balance. Therefore, a change in spending from the Trust Fund, even though modest in scale, changes the size of the deficit. It is appropriate that every federal expenditure be reviewed.

The bill establishes an obligation limitation of $12.350 billion for fiscal years 1987, 1988, 1989, and 1990. Two categories are not subject to the obligation ceiling: Emergency Relief and Minimum Allocation. Total spending each fiscal year from 1987 through 1990 will be approximately $13.2 billion.

EMERGENCY RELIEF PROGRAM

Section 108 requires a State match for emergency relief funds. Currently the Federal/State match for the program is up to 100 percent. In the past, the Secretary has usually increased the Federal match to 100 percent.

There is justification for funding at a 100 percent Federal share for the first 30 days following the occurrence of a major highway emergency. During this period of time, it is appropriate for the Federal Government to provide full assistance in restoring essential services and establishing temporary transportation facilities.

For those repair components relating to permanent restorative work done following the initial 30-day emergency period, a State match should be required. Section 108 requires that the applicable match be determined by the existing Federal/State system match under the regular Federal-aid highway program. Therefore, the Federal share will be 90 percent on the Interstate System, and 75 percent on the Primary, Secondary, and Urban Systems.

Cost sharing among Federal, State, and local governments is a means for ensuring prudent decision-making in the long term restoration and replacement efforts which follow the preliminary emergency repair work. A State must be prepared to provide a 10 or 25 percent match—depending on the highway system affected—as a condition for the provision of Federal emergency relief.

The match requirement, however, will apply only to natural disasters and catastrophic failures, as defined in law, which take place after the legislation is enacted. The provision of emergency relief prior to the date of enactment would be according to the matching share in effect at the time of the disaster or failure.

The 30-day requirement should be flexible. The 30 days will begin to run when a disaster is declared, which initiates the emergency relief action. However, during the time when the disaster is ongoing and before the declaration is made, the Federal Government may participate in eligible emergency work.

HIGHWAY BEAUTIFICATION

Section 117 amends section 131 of title 23 in several important ways. Subsection (a)(1) amends section 131(b) of title 23 to make it clear that the Secretary's authority to penalize a State is discretionary. The penalty amount is changed from a fixed 10 percent to any amount the Secretary chooses between 0 and 5 percent. This change will make it possible for the Secretary to tailor the penalty to the severity of a State violation of the requirements in section 131. Minor departures from effective control can be dealt with less severely than major infractions. This penalty is an addition to the Secretary's general authority to withhold project approvals for failure to comply with statutory and regulatory requirements.

Subsection (a)(2) amends section 131(c) of title 23 by adding five new requirements that are part of effective control:

New section 131(c)(2) encourages states to adopt a permit and enforcement system that controls the erection and maintenance of lawful signs and promptly identifies unlawful signs for removal by requiring States without such a system to maintain an annual inventory that identifies each sign as either illegal, nonconforming, or conforming under State law.

New section 131(c)(3) requires States to remove signs promptly after the State law allows their removal. In the case of illegal signs, it is recognized that there may be a gap between the time a sign becomes illegal and the time it is identified as such by the State. The permit or inventory system required by section 131(c)(2) should ensure that illegal signs are identified at least annually, and they should be removed within 90 days of the time they are identified. This section is also intended to ensure that if the State receives federal aid to provide compensation for nonconforming signs, the signs are removed promptly after the sign owner is compensated. Under existing law, which requires payment of cash compensation for nonconforming signs, there have been instances in which signs were allowed to remain standing for years after the owner had been paid. This requirement should end such abuses.

Under section 131, as amended, a State or political subdivision of a State can use an amortization period to compensate sign owners. Sign owners may attempt to keep their signs up after the expiration of amortization ordinances by challenging the validity of such ordinances. The bill contemplates that signs will be removed within 90 days of the first opportunity under State law. Thus, whenever permissible under State law, the State should remove signs subject to a challenged ordinance at the expiration of the amortization period. If the ordinance ultimately is not upheld in litigation, the State may be directed to pay monetary compensation to the sign owner or reerect the signs. On the other hand, this provision is not intended to require the removal of a nonconforming sign if a State cannot remove such a sign because of an injunction or other prohibition.

New section 131(c)(4) requires the States to prohibit vegetation clearance, the purpose of which is to improve the visibility of billboards outside the right-of-way. States should make every effort to identify and prosecute those responsible for illegal vegetation clearance.

New section 131(c)(5) requires the States to prohibit any modification of nonconforming signs that would extend the useful life of such a sign or improve its visibility. This section is intended to prohibit modifications like the addition of lights which make a sign more visible and the replacement of wooden supports with metal ones that improve the useful life of a sign. This section is also intended to stop the practice of some States that allows replacement of up to 25 percent of a sign in any given year under the guise of routine maintenance, this effectively allowing nonconforming signs to be completely rebuilt every four years.

New section 131(c)(6) requires that advertising displayed on billboards signs carry warning labels if such products are required to have warnings in any other advertising media and that such warning be legible from the main traveled way of the highway. States should be given a reasonable time to allow existing messages to come into compliance with this section.

Subsection (a)(3) of the bill amends section 131(d) of title 23 by placing a moratorium on the erection of any new, off-premise signs in commercial and industrial areas along Interstate and Primary highways after July 1, 1986. Realizing that there will be a time lag until the States enact conforming legislation, this section requires the States to treat signs erected during this interim period as nonconforming.

Subsection (a)(4) of the bill amends section 131(e) of title 23 by eliminating the Federal requirement that lawful nonconforming signs be removed. Nonconforming signs that are lawfully in existence as of the effective date of the Federal-Aid Highway Act of 1986 may remain in place so long as they remain lawful. This section also makes clear that there is no Federal impediment to sign removal by the States. States may remove signs by any method and using any time table available under State law.

This amendment makes no change in section 131(f) of title 23 which provides authority for the information sign program that is carried out by the States within the highway right-of-way. This program, sometimes called the logo program, effectively provides the traveling public with information related to traveler-oriented services while not impairing highway safety or scenic beauty. States should use this program as an alternative to billboards beyond the right-of-way. The amendment also retains section 131(i) of title 23, which permits information centers and systems to be located within the right-of-way.

Subsection (a)(5) rewrites section 131(g). The new section eliminates the existing requirement that the owner of a nonconforming sign and the owner of the real property on which a sign is located be paid compensation in cash when a sign is removed. This amendment permits sign removal by any method allowed by State law, including amortization, and thus places signs subject to control in accordance with the Act in the same category as other classes of land uses traditionally subject to police power regulation.

Since enactment of the Highway Beautification Act in 1965, significant debate and judicial review of billboard regulatory requirements have focused on the issue of compensation versus amortization. It is clear that the Federal compensation requirement has significantly contributed to the widespread failure to achieve the

Act's billboard removal goals. Although only a grant condition, the Federal compensation requirement in effect preempted traditional and lawful State police power to control land uses. The 1978 amendment to the Act (section 122 of the Surface Transportation Assistance Act of 1978, P.L. 95-599, 92 Stat. 2700) which added the phrase "whether or not removed pursuant to or because of this section" to section 131(g) of title 23, further intruded upon traditional State police power in this area. The Highway Beautification Act, as amended in 1978, was interpreted such that removal of any lawful nonconforming sign by any State or political subdivision by any means other than cash compensation subjected the State to a possible financial penalty.

In contrast to the existing Federal requirement, it is well-settled that amortization is a valid, constitutionally permitted alternative to cash compensation so long as the particular amortization scheme is reasonable. Whether a particular ordinance is reasonable is normally a question of State law. Similarly, the point at which a "regulation" becomes a "taking" of property is almost always a question of State law. Since the Fifth Amendment's prohibition against the taking of private property for the public use without just compensation has been incorporated into the Fourteenth Amendment and is therefore binding on State and local governments, the Federal just compensation requirement is unnecessary. State law can be relied on to protect any property rights of sign or sign site owners.

The General Counsel of the Department of Transportation, in an opinion issued in July, 1986, sets forth the basis for the Committee's position. Courts have consistently refused to overturn amortization schemes challenged on Fifth Amendment taking or on equal protection grounds. The Highway Beautification Act's existing just compensation requirement, in effect, has provided the billboard industry with a unique exemption from the exercise of State police power and has cost taxpayers millions of dollars to remove signs that could have been lawfully removed by other means. Over the last several years cities across the country have experienced the frustration of having amortization ordinances upheld in court only to find that enforcement of the ordinances would subject the State to the sanctions set forth in the Highway Beautification Act. With the cash cost to remove the remaining nonconforming signs estimated at over $1 billion, it is imperative that control over sign removal be returned to the States.

Although States would not be required to remove nonconforming signs or to pay cash compensation if they do choose to remove them, amended section 131(g)(1)(ii) authorizes Federal participation in any compensation paid by the States to acquire nonconforming signs. Amended section 131(g)(1) authorizes Federal participation in State costs incurred for the physical removal of both illegal and nonconforming signs. This provision is based on the recognition that some States have changed their laws to require cash compensation because of the current Federal law.

The terms "illegal" and "nonconforming" used throughout this amendment are understood as defined in the Federal Highway Administration (FHWA) regulations on billboards, 23 CFR Part 750. The distinction is that nonconforming signs were legal when erected, but could no longer be legally erected in the same location because of changes in the law or land use. Illegal signs were either not legal when erected or if legally erected have become illegal as a result of noncompliance with requirements such as permits, lease terms, maintenance, etc. Nonconforming signs that lose their nonconforming status through a volitional act of the sign owner, such as failure to seek a permit, become illegal.

New paragraph 131(g)(2) changes the source of Federal funds available for participation in State costs from the General Fund to the States' combined Interstate-primary apportionment from the Highway Trust Fund created by section 119. New paragraph 131(g)(2) makes the Federal share available for billboard projects under section 131 of title 23 the same as the Federal share in section 120 of title 23 for other highway projects, i.e., generally 75 percent for projects on the primary system and 90 percent for projects on the Interstate System.

New paragraph 131(g)(3) creates a new prohibition against States disposing of any billboard sign acquired with Federal participation unless the State receives satisfactory written assurances that the material disposed of will never be used again for outdoor advertising. This requirement is included to eliminate the practice of States' buying signs for fair market value and disposing of them by selling them back to billboard enterprises for a minimal salvage value only to have them re-erected elsewhere.

Subsection (a)(6) of the bill amends section 131(h) of title 23 by clarifying that the Federal agencies with jurisdiction or responsibility for lands and reservations owned or controlled by the United States are responsible for controlling outdoor advertising on their respective lands. Last year the California Supreme Court ruled that the State of California did not have jurisdiction to enforce the State's billboard laws on Indian reservations because of section 131(h) of title 23 preempted State authority. The Court was correct in finding it would be inappropriate to require a State to control billboard activities on lands or reservations under Federal jurisdiction or control. Paragraph 131(h)(2) is added to ensure that billboard practices on Federal lands and reservations are controlled by the appropriate Federal agency and that the controls are consistent with the laws of the State in which such land is located.

Paragraph 131(g)(2) requires each Federal agency affected to adopt billboard regulations that are consistent with the stricter of the requirements of section 131 of title 23 or the State in which the land is located. These regulations must be developed in consultation with the Secretary and promulgated within one year of the effective date of this Act.

This section does not affect the Bonus Program in existing section 131(j).

Subsection (a)(7) of the bill amends section 131(k) of title 23 by deleting the reference to the just compensation requirement in section 131(g) that was repealed by this section. The States' authority to promulgate stricter laws regarding billboards than the Federal grant conditions in section 131 of title 23 is retained.

Subsection (a)(8) of the bill repeals section 131(n) of title 23, which exempted States from the requirement to remove nonconforming signs if Federal funds are not available for sign removal. Since States will no longer be required to remove nonconforming signs and Federal funds are available from the Trust Fund for States that choose to use their apportionment to pay compensation, this provision is no longer necessary.

Subsection (a)(8) of the bill also repeals section 131(p) of title 23. Since the requirement to remove nonconforming signs is eliminated, this section is unnecessary.

Subsection (b) makes these provisions applicable to the states on December 31, 1988.

THE FEDERAL-AID BRIDGE PROGRAM

This Act improves the Federal-aid bridge program in several areas, including the off-system bridge program, preservation of historic bridges, qualifications of bridge inspectors, and the discretionary bridge program.

Section 116 provides States with additional flexibility in addressing their off-system bridge needs. The State of Tennessee has undertaken a demonstration program involving off-system bridge replacement and rehabilitation. Under this approach, which was permitted under the STAA of 1982, Tennessee has been able to replace a total of 1.212 small, off-system, antiquated bridges over the two-and-one-half years of the demonstration program.

The Tennessee demonstration has successfully fostered needed bridge improvements on non-Federal-aid routes. Under the demonstration program, Tennessee was allowed to credit its State financed off-system bridge replacement and rehabilitation toward the state share of the Federal-aid bridge program. The work has been limited to non-controversial, low-cost bridge projects not on a Federal-aid highway system. After replacing and rehabilitating these types of off-system bridges with State funds, Tennessee applied the amount to reduce its 20 percent state match required for other Federal-aid bridge projects.

Tennessee's experience has been valuable, and the bill extends this approach for addressing the major off-system bridge problem to all states. Making these provisions available nationwide should result in a significant benefit to the bridge replacement and rehabilitation program. As in the demonstration project carried out in the State of Tennessee, the replacement and rehabilitation of these bridges must be carried out in accordance with all standards applicable under section 144 of title 23, and will be limited to non-controversial, relatively low-cost, off-system bridges.

Section 134 of this Act will encourage the preservation of historic bridges. The United States celebrated the centennial of the Brooklyn Bridge in May of 1983. This bridge has become a symbol of our country's heritage—as an engineering feat, as a vital transportation link, as a work of art, and as an important part of our history. It has also served to focus attention on the preservation of historic bridges in this country.

There are over 564,000 bridges in the United States. Less than 1,000 are listed on the National Register of Historic Places. Another 1,000 bridges may be eligible for listing but have not yet been studied and nominated.

Many states and localities have demonstrated that there are historic bridges which are structurally sound and can remain useful as a transportation facility. Often the preservation of such a bridge is less costly than demolition and replacement.

Citizens across the country recognize the value of preserving historic bridges. Not only are they of value to the transportation system, but also to the economic well-being of a community either as a tourist attraction or a point of interest which attracts further economic development.

The purpose of section 134 is to encourage the inventory, protection, adaptive reuse and continued transportation use of historic bridges. This goal is consistent with the Secretary's responsibilities to encourage the repair and replacement of bridges.

The section establishes historic bridge preservation as an affirmative priority and directs the Secretary to explore preservation solutions. Its purpose is to grant the Secretary and state officials the maximum possible flexibility in their use of Highway Bridge Replacement and Rehabilitation Program (HBRRP) fund to facilitate their efforts to accomplish historic preservation and to develop a safe and efficient highway network.

This section does not change the requirements or responsibilities of the Secretary under section 138 of title 23 or Section 4(f) of the Department of Transportation Act. Consequently, the section does not require that any historic bridge be preserved, adaptively reused, destroyed or rehabilitated.

Subsection (c) directs the completion of historic bridge inventories in all States. The majority of States have already begun or finished inventories. Such inventories are critical to accomplishing the purposes of this section.

Subsection (d) clarifies that HBRRP funds are available for actions taken to avoid or minimize harm to historic bridges that may occur through the HBRRP. Such actions may include, but are not limited to:

(1) the rehabilitation of the bridge for continued vehicular use;

(2) the rehabilitation of the bridge for non-vehicular recreational, historical or other use;

(3) the salvage of significant features for reuse or historic use;

(4) movement of the bridge to another location;

(5) dismantling and storage of the bridge for possible future reconstruction and reuse; and

(6) documentation of the bridge pursuant to the standards of the Historic American Engineering Record of the National Park Service.

Section 144 has not always been interpreted to allow the use of HBRRP funds for bridge preservation even though under existing law this authority does exist. Therefore, explicit clarification has been included.

Subsection (e) directs state officials to make available for donation bridges that would otherwise be destroyed. The Secretary should develop regulations that further define this requirement. At a minimum, the regulations should provide that, where more than one locality or private entity requests a bridge, the bridge should be awarded to that locality or entity whose possession of the bridge will best accomplish the purposes of this section. Regulations should establish reasonable standards for advertising the availability of bridges, a process that several States have begun.

Subsection (e) also provides that if an historic bridge is eligible for demolition with bridge funds, at the option of the States, reasonable costs to preserve the historic bridge are eligible for bridge funds. This is not a mandatory requirement but serves as an option if a State wishes to use its regular Federal-aid bridge apportionments. The State must agree that the bridge will be used for a public purpose and that a public entity will assume legal and financial responsibility for the bridge. Adoption of this subsection does not exclude the possibility of bridge donation to an agency of the Federal Government.

Subsection (g) directs the Secretary to work with the Transportation Research Board (TRB) of the National Research Council to undertake a study of historic bridge preservation. The direction to develop standards for the rehabilitation of historic bridges is particularly important. In some cases, state officials have been reluctant to approve the rehabilitation of historic bridges where such rehabilitation would conflict with American Association of State Highway and Transportation Officials (AASHTO) standards. Although these standards may be flexibly applied, no alternative standards exist that combine safety concerns with historic preservation goals. The development of such alternative standards will facilitate the flexible application of safety standards and allow for the preservation of additional historic bridges.

In testimony before the Committee, safety concerns were raised with regard to functionally obsolete older bridges. While many bridges built 40–50 years ago will be functionally obsolete, historic bridges which are worthy of preservation can be safely operated if certain measures are taken. These measures may include limiting traffic, posting warning signs and setting lower speed limits. Safety continues to be a major concern in the construction and reconstruction of the entire Federal-aid highway system.

The TRB should work closely with AASHTO, FHWA, the National Park Service, the National Trust for Historic Preservation, the National Conference of State Historic Preservation Officers and other interested parties in considering historic bridge rehabilitation standards. Such standards may be incorporated into the AASHTO standards and the Secretary of Interior's Standards for Historic Preservation.

Concerns have been raised regarding qualification requirements for bridge inspectors and inspection procedures for use by State bridge inspectors.

The National Society of Professional Engineers through its National Institute for Certification in Engineering Technologies (NICET) has in place six certification programs for highway engineering technicians that were developed in cooperation with FHWA and AASHTO. One of the six is a new certification program entitled "Bridge Safety Inspection." This NICET Bridge Safety Inspection certification is job task specific and nationally applicable with a written examination that can be used to determine specific training needs.

State highway agencies are encouraged to evaluate the NICET certification program and determine its usefulness in training and certifying State bridge inspectors. FHWA is also encouraged to review the adequacy of the NICET Bridge Safety Inspection course. States should continue their emphasis on identifying deficient bridges and assuring effective inspection programs.

Again this year requests were submitted to establish legislative history making specific bridges eligible for discretionary bridge funds. Including specific bridges in legislative history has, in the past, created expectations beyond the funding capability of the discretionary bridge program. The selection criteria established under section 161 of the STAA of 1982 should be continued as the mechanism to select bridges for these discretionary funds. FHWA is directed to rely upon the criteria established by the Secretary in setting priorities.

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Section 130 maintains a program which establishes goals to encourage the participation of disadvantaged business enterprises (DBEs). The provision extends the program through 1990.

Subsection (a) establishes a 10 percent goal and provides Secretarial discretion to reduce the goal. The Secretary's decision to approve or disapprove a state's request for a reduced goal should be based on, but not limited to, consideration of the following factors: (1) the number of DBE/WBE firms in the state or region; (2) historical data relating to DBE/WBE participation in Feederal-aid highway projects in the State or region; and (3) the minority population in the State or region. Funds expended under the Indian Reservation Roads program in a State may be counted by the State toward meeting its goal. In recent years funds obligated under the highway program have been less than funds authorized. Contracting goals set under the DBE program should be based on the lesser of the funds authorized or obligated.

Section (b) defines for the purpose of the highway program "disadvantaged business enterprise," "small business concern," and "socially and economically disadvantaged individuals." The current definition of small business concern is modified since the definition in the Small Business Act regulations includes larger companies than are appropriate for highway work. This subsection applies only to the size of contracting firms within the Small Business Administration definition for the category of General Construction. "Disadvantaged individuals" would be expanded to include women in the rebuttable presumption of being disadvantaged.

Subsection (c) allows costs incurred by State and local governments and prime contractors in assisting disadvantaged businesses to be used to meet the goal. These costs are those associated with improving the management skills of such businesses as well as worker training programs. Such costs cannot be used to meet more than 10 percent of the goal in any year. For a State with a 10 percent goal, this makes the limit the equivalent of one percent of the amounts obligated.

Subsection (d) requires the Secretary to establish uniform minimum criteria for State governments to use in certifying whether a concern is a disadvantaged business enterprise for the purposes of this section. The Secretary shall consult with the States in developing minimum uniform criteria for use by State governments in the disadvantaged business enterprise certification process. The criteria should include but not be limited to such requirements as an onsite visit, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resumes of principal owners, financial capacity, and type of work preferred. Each State shall develop a list of certified DBEs based on the above criteria.

Subsection (e)(1) is intended to prevent disadvantaged businesses from obtaining subcontract work and then hiring another company (presumably a firm which would not qualify as a disadvantaged business) to perform the subcontract work. This subsection will prevent disadvantaged firms from acting as brokers by disallowing the value of the subcontract as meeting part of the goal if the disadvantaged firm did less than 30 percent of the work itself, unless that State or local government allowed less than 30 percent under the provisions of paragraph (2). The 30 percent will be calculated after deducting the cost of materials and supplies. It is intended that the work will include only employees paid directly by the disadvantaged firm and equipment owned or rented by such a firm. This subsection is modeled after 23 C.F.R. Section 635.113(a) which prevents prime contractors, in any type of Federal-aid projects, from merely acting as brokers.

Recognizing that some types of subcontract work might require the use of specialty third-tier contractors, paragraph (2) of the subsection establishes a mechanism so that the State can allow less than 30 percent of the work to be done by the subcontractor and yet the full value of the subcontract will still qualify toward meeting the goal. It is intended that this section will be used rarely. Major factors in granting an exception will be whether the public interest would be served and whether the actual degree of participation by the disadvantaged subcontractor is that prevailing in the industry for that particular type of subcontract.

The subsection also disallows including in the goal any funds paid by the disadvantaged subcontractor to the prime contractor or its affiliate, including rental of labor and/or equipment. This is designed to help ensure that the disadvantaged firm is a fully functioning independent commercial entity. However, the State could allow such payments to be counted as part of the goal in unusual circumstances if the State approves such payment in advance, such payment is generally accepted in the industry as a way of doing business for that kind of subcontract, and such payment does not involve any impropriety.

Subsection (f) requires that a certain percentage of the goal be met by prime contracts with DBEs starting with fiscal year 1988. The intent of this provision is to encourage disadvantaged business enterprises to compete for prime contracts and to ensure that non-DBE firms are not driven out of the subcontracting business. It is essential that minorities and women gain business opportunites throughout the highway industry. There is concern that the goals of the Disadvantaged Business Enterprise program not be achieved in a way that affects any segment of the industry disproportionately, in particular the specialty subcontracting industry.

Subsection (i) ensures that the 105(f) provision in the 1982 STAA does not apply to old funds that are subject to this new DBE provision. This provision applies to highway projects using funds obligated after the effective date of this act, even if the funds were authorized under the 1982 STAA. This is designed to minimize the period of time during which there will be two sets of requirements for DBEs.

Equal opportunities for effective and meaningful participation shall be available to women in federal and federally assisted highway construction work. It is the intention of this language that prime contractors performing Federal-aid highway construction contracts and state transportation departments will now be able to utilize WBEs to meet their DBE contract goals. It is not intended that the overall DBE requirement set by this section be increased as a result of the inclusion of WBEs as a presumptive group.

Affirmative efforts by the Secretary are essential and are being taken to meet existing employment requirements for women for construction jobs on federally assisted highway projects. Inclusion of WBEs as a presumptive group eligible under section 130 will provide increased opportunities for women business owners in the construction industry.

RIGHT-OF-WAY DONATION

In order to encourage private sector participation in financing the construction of new highways, section 125 allows the State to credit 100 percent of the value of land donated for right-of-way to the State matching share. The donation of right-of-way is permitted under current law but the credit must be divided among the Federal and State share in the same proportion as the Federal/State system match required. The Committee has received testimony indicating that the private sector would have more incentive to participate in the construction of transportation facilities if the value of donated right-of-way could be fully credited to the State share.

This incentive is limited to the private sector and does not apply to land acquired by a Federal, State, or local government prior to the enactment of this bill and subsequently donated by such government to a highway project. The credit a State receives for a project may not exceed the State matching share for the project to which the donation is applied.

All provisions and protections of the Uniform Relocation Assistance Act continue to apply. This section applies only to voluntary donations which are made. No State or local government may engage in any coercive activities which force the donation.

This provision does not change any procedures, regulations or court decisions regarding the purchase of right-of-way for Federal-aid highway projects.

Subsection (b) of section 125 provides for donation of right-of-way in advance of the planning process for a prospective highway project. The provision will allow a landowner to donate property along a corridor identified as a possible alignment for a highway project. A donation made in accordance with this subsection will not affect the environmental requirements in the planning process.

A donation made in advance of actual selection of alignment is intended to generate local support for a highway project and to contribute to cost reduction with respect to the project. Such donations can lead to substantial reduction in the time and cost required for right-of-way acquisition.

To ensure that environmental analyses of alternative projects are not compromised by such a donation, the provision requires that all alternatives to a proposed alignment, including the no-build option, shall be studied and considered in the environmental analysis. Under this authority State highway departments are to continue project development as currently required.

This provision is included to reduce costs and increase State and local involvement in decision-making with respect to highway projects. Such a donation does not mean a particular alignment will be approved. If, following the planning process and appropriate environmental analysis, the particular corridor in which the donation is made is determined not to be the most feasible, the property acquired shall be revested in the grantor or successors in interest. This action will prevent projects from being built which do not serve the best transportation alternative for the area.

Subsection (c) amends the Uniform Relocation Assistance Act to encourage the donation or gift of real property for a highwary project while not affecting the right to compensation under the Uniform Act. The intent is to provide a policy which maximizes Federal and State dollars when a landowner assists in the development of a highway project.

Subsection (d) provides that any excess value of donated lands to a project in Orange County, California may be credited to that State's share of any other Federal-aid project.

WILDFLOWERS

Section 136 requires that States expend a minimum of one-quarter of one percent of the Federal-aid highway construction funds used for landscaping on a project for the planting of wildflowers or seedlings. The state flower and shrub are included in the definition of wildflowers and seedlings. This provision is included for two reasons. First, for a number of years the Committee has been involved in beautifying our Nation's roadways. In 1965, Congress enacted the Highway Beautification Act which supplemented earlier authority for landscaping on Federal-aid highway construction projects. Secondly, the provision will reduce maintenance for highways where plantings of this nature are included in the project. Texas has demonstrated the cost-cutting, water-saving and labor-saving benefits of adding wildflowers to the highway landscape. Because of its wildflower program, Texas has reduced annual mowing costs by 24.8 percent while enhancing native vegetation.

This provision is an important step in beautifying and reducing costs on our highways, but there are areas of the country where the planting and maintenance of such flowers and shrubs are not practical. Upon the request of a State, the Secretary may waive the requirement for the planting of wildflowers with respect to any highway project. The Secretary may grant a waiver based on, but not limited to, the existence of any of the following conditions: the area is not conducive to wildflower growth, the planting of grasses is used for farm purposes, or the climate is not satisfactory for growth of such vegetation. The Secretary shall approve projects that include a request for plantings exceeding the minimum one-quarter of one percent requirement.

Voluntary donations of seeds or seedling by the private sector are not precluded. Such donations have been authorized administratively as a part of the Highway Beautification program. Continued support for this type of private sector participation in the beautification of highways is essential.

MINIMUM ALLOCATION

Section 118 of this bill amends section 157 of title 23 to permanently authorize the 85 percent minimum allocation provision adopted in the 1982 STAA. The section also amends section 157 to require that allocations be included with apportionments in the calculation of the 85 percent minimum formula. This will provide donor States a return closer to 85 percent of the amount contributed to the Highway Account of the Highway Trust Fund by these states.

Three major categories of highway assistance are added to the calculation: Interstate discretionary, bridge discretionary, and emergency relief. Also included are several small programs authorized from the Highway Trust Fund. Specifically excluded from the calculation are three categories of public lands highway programs which are not allocated directly to states: highway related safety grants, nonconstruction safety grants, and Bureau of Motor Carrier Safety grants.

The provision modifies existing law by providing that on October 1 the Secretary shall determines those states which do not receive a return in apportionments and allocations of at least 85 percent of their contributions to the Highway Trust Fund. The Secretary, in making the calculation, shall add apportionments made on October 1 for the current fiscal year and allocations made among the States for the fiscal year ending on the prior September 30. This amount shall then be compared with Trust Fund contributions for the most recent year available.

The minimum allocation account is distributed on the basis of a formula and is, therefore, an apportionment. The minimum allocation distribution made in the previous fiscal year is not calculated for purposes of determining whether the minimum 85 percent return has been received for the current fiscal year.

Section 118 is a clarification of the STAA of 1982 calculation requirements and applies only to the Highway Trust Fund other than the Mass Transit Account. This section shall become effective on October 1, 1986, and the calculation will be made for fiscal year 1987.

WASTE ISOLATION PILOT PROGRAM

Section 132 authorizes $58,000,000 in fiscal year 1987, available until expended, for the upgrading of certain highways in New Mexico which will be used to transport low-level, defense-related wastes to the Waste Isolation Pilot Project (WIPP) near Carlsbad, New Mexico.

The Waste Isolation Pilot Project, a facility for the disposal of transuranic wastes generated as part of the Atomic Energy Defense Activity of the Department of Energy (DOE), was authorized by the Congress in 1979 (P.L. 96-164). No other facility of its kind has been proposed elsewhere, and its construction is of national significance.

As part of the authorizing legislation, the Secretary of Energy was directed to enter into a written agreement with the State of New Mexico on how DOE was to resolve the concerns of that State. A Stipulated Agreement, and a modification thereof, is in place between the State and DOE, and that Agreement is being overseen by the U.S. District Court. As a part of the Agreement, DOE pledged to support the New Mexico Congressional Delegation in seeking appropriations for the purpose of upgrading certain highways which would be used for transporting wastes to the facility.

FHWA has submitted a report to the Senate Appropriations Committee which details a four-year schedule for completing the upgrading. FHWA has determined that $58 million is a reasonable estimate for the cost to complete the 205.9 miles of roads and fully supports the authorization. This provision is essential to ensure that the federal government meets its commitment to the State of New Mexico, which has accepted this project of national importance.

STRATEGIC HIGHWAY RESEARCH PROGRAM

The Strategic Highway Research Program established in section 114 is a four-year effort under the direction of the Secretary to carry out concentrated research, development, and technology transfer activities. Funding will be provided through a deduction of one-quarter of one percent from funds authorized for the programs specified in subsection 104(c) of title 23, United States Code.

At present, $1 trillion has been invested in the Nation's highways. Thirty years ago, at the outset of the Interstate highway program, a landmark highway research program was launched. This was the American Association of State Highway Officials (AASHO) Road Test. Now as the Interstate nears completion and the emphasis shifts to preserving the existing investment and maintaining a mature road network, another major research initiative is needed.

The priority research areas for SHRP will include: asphaltic materials; pavement performance; maintenance cost effectiveness; bridge concrete protection; cement and concrete; and chemical control of snow and ice.

The Secretary will carry out SHRP in cooperation with State highway and transportation departments, as represented by the American Association of State Highway and Transportation Officials. The Secretary will set standards for the use of the research funds.

The Secretary may provide grants to and enter into cooperative agreements with AASHTO and the National Academy of Sciences to conduct appropriate portions of SHRP. States will not be required to provide a match for these funds, and SHRP monies will remain available for four years.

Benefits to the highway program in SHRP research results and innovations will far outweigh SHRP funding costs and help bring about needed improvements in the nation's transportation system.

Research efforts will cover a broad area and have lasting effects. The bill provides that the National Academy of Sciences be treated as a federal agency in litigation which may result from the implementation of SHRP. It is appropriate for the Academy to be treated as an agency of the federal government for purposes of the SHRP study. In this way it will be possible for SHRP participants to proceed scientifically without undue concern over possible lawsuits resulting from materials analysis, research findings, study recommendations, or other SHRP-related work.

INDIAN EMPLOYMENT AND CONTRACTING

Section 129 brings the antidiscrimination provision of section 140 of title 23, United States Code, into conformity with title VII of the 1964 Civil Rights Act on the issue of Indian preference. Section 703(i) of title VII makes Indian preference a permissible exception to the general prohibition against discrimination, thereby encoding a longstanding Federal policy towards Indians. During implementation of the STAA of 1982, questions have arisen as to whether the section 703(i) Indian exception is implicit in other antidiscrimination provisions, such as section 140. While the court cases support the principle of implicitly including 703(i) in other Acts, (see *Wardle* v. *Ute Indian Tribe,* 623 F.2d 670 (10 Cir. 1980)) the bill, to eliminate any doubt on this question, amends section 140 by incorporating 703(i). This subsection shall apply to Indian reservation roads as defined by section 101 of title 23.

Using their section 703(i) exception and their own sovereign authority, a growing number of tribes are establishing Tribal Employment Rights Offices (TEROs) to promote Indian employment on their reservations.

Many tribes have a tax of one-half to one percent on contracts performed on the reservation to provide job referral, counseling, liaison and other services to contractors. Because the tax is used for specific services that directly benefit a highway project, Congress approves of the Secretary's current practice of reimbursing such costs incurred by contractors under the United States Supreme Court holding, *Washington* v. *United States,* 103 S. Ct. 1344, 1983. The Secretary is instructed to cooperate with tribal governments and States to ensure that contractors know in advance of such tribal requirements. For the purpose of Federal-aid highway contracts, the TERO tax shall be the same as imposed on other contractors and shall not exceed one percent of the contract.

In order to develop workable and acceptable employment agreements covering affected projects, highway agencies are encouraged to meet with TEROs and contractors prior to bid letting on a project to set employment goals. Such goals shall take into consideration, but not limited to, the availability of skilled and nonskilled Indian laborers, the type of contract, the core-employment requirement of the contractor and the type of training program.

Employment goals once established shall not be subject to arbitrary change by a State highway agency, Indian tribal government or contract.

Indian preference should be applied to all Indians regardless of place of enrollment as proposed by the National Indian Contractor Association and others. The Secretary in consultation with the States shall recommend a reliable machine operator certification program to ensure that operators referred to TEROs are competent to operate specific equipment; encourage TEROs to adhere to Office of Federal Contract Compliance Guidelines for the inclusion of other minorities and females in job referrals; and develop guidelines defining core-crew requirements. Any Indian already hired by a contractor shall be included in the core-crew definition regardless of job function to avoid the unintended results of having a contractor lay off or terminate an Indian employee to hire another under this provision.

GASOLINE EXCISE TAX EVASION

Concerns have been raised regarding evasion of the gasoline excise gas. While the Federal gasoline excise tax generally becomes due upon its sale by a refiner or importer, the law allows for exemptions for gasoline wholesalers. However, certain wholesalers have used their exemptions in "daisy chain" schemes to evade the tax. According to the Department of Justice, the scheme, often involving elements of organized crime, uses a succession of paper transactions, reflecting purported tax free sales, that ultimately places the tax liability with a shell company. In fact, the gasoline itself never changes ownership and the shell company which purports to sell the gasoline to retailers does not pay the tax. Tax authorities seeking payment of the tax find that the shell company is bankrupt or non-existent.

It has been suggested that moving the point of collection of the tax to the level of the refiner or importer would reduce evasion and increase revenues by as much as $1 billion. The Environment and Public Works Committee believes that this and any other proposals to reform the method of collection of gasoline excise tax, to combat this tax evasion, warrant careful consideration by the Finance Committee.

PRIORITY PROJECTS

Section 139 provides improved flexibility enabling states to fund high priority projects. The Federal-aid highway program is one of the largest and most successful Federal programs in history. It has worked well because of the strong partnership between Federal and State governments, with program funding originating at the Federal level and actual administration taking place at the State level.

From the beginning, there has been a strong belief that state and local officials are in the best position to know their transportation needs and to determine their own priorities. In recent years, however, the structure and financing of the program have been increasingly distorted by special interest or demonstration projects.

These projects are often of limited interest, but funded entirely with Federal dollars. This means additional authorizations with no matching commitment of funds and a reduction in the amount of funds available for the regular Federal-aid highway program.

At a time when highway needs far outweigh available funding, demonstration projects are not appropriate. Therefore, the bill permits the designation of specific highway projects, but no new Federal authorizations are provided. Funding must be provided from a state's regular Federal-aid apportionment and these funds are to be made available for these priority projects only at the state's request. There is additional flexibility in that the state could choose to use funds from any Federal-aid category. The match requirement will be based on the categories of Federal-aid apportionments used.

SECTION-BY-SECTION ANALYSIS

SECTION 101—SHORT TITLE

This section provides that the title may be cited as the "Federal-Aid Highway Act of 1986".

SECTION 102—AUTHORIZATIONS

This section authorizes the appropriation of sums from the Highway Trust Fund, other than the Mass Transit Account, for the Federal-aid programs for fiscal years 1987 through 1990.

Clause (1) provides authorizations for the Interstate-primary program of $8.15 billion for each fiscal year 1987 through 1990.

Clause (2) provides authorizations for the Federal-aid urban system of $750 million for each fiscal year 1987 through 1990.

Clause (3) provides authorizations for the Federal-aid secondary system of $600 million for each fiscal year 1987 through 1990.

Clause (4) provides authorizations for the bridge replacement and rehabilitation program of $1.5 billion for each fiscal year 1987 through 1990. A total of $200 million per year shall be set aside for the bridge discretionary fund.

Clause (5) provides annual authorizations for each of the components of the Federal lands highway program for fiscal years 1987 through 1990 as follows: forest highways $50 million, public lands highways $50 million, Indian reservation roads $75 million, and park roads and parkways $75 million.

Clause (6) provides each of the territories (the Virgin Islands, Guam, American Samoa, and the Northern Marianas) with an annual authorization under the Territorial Highway Program for fiscal years 1987 through 1990 of $5 million, $5 million, $1 million, and $1 million, respectively.

Clause (7) provides annual authorizations for highway related safety construction grants by FHWA for the fiscal years 1987 through 1990 of $10 million.

Clause (8) provides annual authorizations for highway construction safety research and development grants by FHWA for the fiscal years 1987 through 1990 of $10 million.

Clause (9) provides annual authorizations for hazard elimination for fiscal years 1987 through 1990 of $175 million.

Clause (10) provides annual authorizations for rail-highway crossing for fiscal years 1987 through 1990 of $175 million.

SECTION 103—INTERSTATE SUBSTITUTE PROGRAM

This section amends section 103(e)(4) of title 23, the Interstate Substitute Program. The amendments to section 103(e)(4) are a simple recodification except as follows.

Section 103(e)(4)(B) makes highway construction projects on any public road eligible, as highway substitution projects, expanding the current eligibility from projects authorized under any highway assistance program under section 103 of title 23.

Section 103(e)(4)(C) deletes the deadline for project approval.

Section 103(e)(4)(E) makes substitution funds available in a state for 2 years. Funds not obligated in the 2 year period shall be reallocated or reappropriated as the case may be.

Section 103(e)(4)(G) provides authorizations for highway substitution projects for the fiscal years 1987, 1988, 1989, and 1990 of $650 million per fiscal year.

Section 103(e)(4)(H)(iv) provides for the administrative adjustment of the last Interstate Substitute Cost Estimate (ISCE) approved to make substitution apportionments for highway after fiscal year 1986, beginning on October 1, 1986.

Section 103(e)(4)(J)(iv) provides for the administrative adjustment of the last ISCE approved to make transit substitution apportionments after fiscal year 1986, beginning on October 1, 1986.

Section 103(e)(4)(P) directs the Secretary to reserve in a State's account under section 103(e)(4) of title 23, United States Code, an amount equal to that expended on right-of-way for a withdrawn route or segment of the Interstate where the right-of-way has not been disposed of. Such sum shall be released to the State upon partial or full repayment of funds in accordance with section 103(e)(7) of this title or upon the determination by the Secretary that under section 103(e) (5)(B) or (6)(B) repayment is not required.

Subsection (b) adds a new section 103(e)(10)(A) to title 23 which permits States flexibility in crediting funds expended on withdrawn Interstate routes. Section 103(e)(7), of title 23, requires payback of the costs of construction items, materials and right-of-way acquired for highway projects on segments withdrawn from the Interstate System on or after November 6, 1978, unless the state gives assurance acceptable to the Secretary that such items, materials and rights-of-way (i.e., property acquired for highway projects) have been or will be applied to a transportation project within ten years from the date of approval of withdrawal of the Interstate segment. Preliminary FHWA estimates indicate that $94,097,583, in Federal funds were expended for such costs in connection with the construction of Westway (I-478).

The final rule on use and disposition of property previously acquired by States for withdrawn interstate segments (effective May 30, 1986) specifies that in the event of such payback, an amount equivalent to the funds paid back will be credited to the repaying State's unobligated balance of the same class of funds which were used to acquire the property. This section enables a State to credit its payback to its unobligated balance of combined Interstate-primary and Interstate 4R and primary projects.

Under this section, New York shall fully repay the United States Treasury for the amount of Federal funds expended for the cost of construction items, materials and rights-of-way associated with the withdrawn Westway Project. Under the present rules, such action would result in a sizable increase in funds which would be available only for Interstate completion for New York. However, New York already has adequate funds to complete its remaining uncompleted portions of the Interstate System. This section provides the state with the flexibility to credit other accounts where funds can be better used.

SECTION 104—APPORTIONMENT

This section amends section 104 of title 23 as follows:

Subsection (a) makes technical and conforming amendments.

Subsection (b) adds a new subsection to set aside funds for the Strategic Highway Research Program from Federal-aid Interstate-primary, Urban, Secondary, Bridge, Highway Substitution, Railway-Highway Crossings and Hazard Elimination authorizations.

Subsection (c) repeals transfer provisions which do not conform with the creation of a new Federal-aid Interstate-primary program.

Subsection (d) provides apportionment formulas for the Federal-aid Interstate-primary formula, the Secondary System and the Urban System. The Secondary and Urban formulas are unchanged. The Federal-aid Interstate-primary formula replaces existing Interstate construction, Interstate 4R, and primary program formulas which are unchanged. Those programs are consolidated by this Act into one program.

Paragraph (A) provides a formula for the new Interstate-primary program which apportions $3.0 billion based on an administratively adjusted Interstate Cost Estimate, $2.8 billion based on the existing Interstate 4R formula and $2.35 billion based on the existing primary formula.

Subsections (e), (f) and (g) make technical and conforming amendments.

Subsection (h) permits a State to transfer up to 50 percent of its apportionment between the Urban and Secondary Systems. Urban System funds allocated to an urbanized area under section 150 of title 23 cannot be transferred without the approval of the local officials of the area.

States should consult closely with local government officials in making allocation decisions on secondary and urban road funds. It is important that fair consideration be given in developing the process for the allocation of these funds and that States provide a share of the secondary and urban system funds to those systems under the control of local governments. Although such roads may not experience the heavy traffic of the Primary System, they are vital in sustaining rural communities and transporting food and basic goods to the markets of this nation.

SECTION 105—LETTING OF CONTRACTS

This section amends section 112(b) of title 23 to permit the Secretary to waive competitive bidding on a reconstruction contract where an emergency situation such as an emergency relief project exists.

Section 105 also includes a provision which makes clear that any state or local government that has adopted legislation concerning public contracts with persons doing business in South Africa may apply the legislation to contracts funded pursuant to the Federal-Aid Highway Act of 1986, as long as any increase in cost resulting from the application of the legislation is paid by the State or local government.

To illustrate, the City of New York has adopted a law providing that when the lowest bidder for a contract fails to certify that it will not do business with the South African government, the city may award the contract to a bidder whose bid is within 5 percent of the low bid, and who will so certify. Under the provision of this amendment, the city may apply its law to its Federal-aid highway contracts. However, the city must enter into an agreement with the Secretary that if a contract is awarded to other than the low bidder because of the low bidder's failure to make the certification about its business in South Africa, the city will pay the difference in cost between the bid of the low bidder and the bid that is accepted.

This provision will be void when South Africa ends its apartheid laws and policies.

Federal law requires Federal agencies, but not States, to use the qualifications-based method to select architects and engineers for construction projects. Presently some States rely on qualifications-based procurement while others use a low bid system.

Where State law mandates qualifications-based procurement for engineering services, FHWA should not interfere with that selection procedure. Where the State law allows qualifications-based procurement or this selection method is enacted by procurement policy, FHWA should support the use of qualifications-based procurement procedures equivalent to the Federal method of procuring these services. Where States are silent in law or procedure for selection, FHWA should encourage the use of the Federal qualifications-based procurement process. A Federal mandate in this area is inappropriate and States should continue to have the right to decide which architect/engineer selection process to use.

SECTION 106—AVAILABILITY

This section amends section 118 of title 23 to provide four-year availability for the Interstate-primary program, with any unobligated funds lapsing at the end of the period.

The new paragraph (b)(2) clarifies the availability of bridge replacement and rehabilitation funds. Apportioned funds remain available for obligation in a State for four years with unobligated funds reallocated as bridge discretionary funds. Bridge discretionary funds remain available for obligation in a State during the year of allocation with unused authority available to the Secretary for further reallocation.

This section also makes technical and conforming amendments to eliminate the Interstate and Interstate 4R discretionary funds.

SECTION 107—INTERSTATE SYSTEM RESURFACING

This section makes technical and conforming amendments to section 119 of title 23 and amends provisions that require a reduction of a State's Interstate apportionments by 10 percent for failure to maintain the Interstate System adequately to require a reduction of not more than 10 percent of a State's Interstate portion of the Interstate-primary apportionment at the discretion of the Secretary.

SECTION 108—FEDERAL SHARE PAYABLE

This section amends section 120 of title 23 making technical and conforming changes and also provides a Federal share for Interstate-primary funds used on the Primary System (other than the Interstate) of not to exceed 75 percent of the cost of construction. These percentages may be increased under the sliding scale provision of current law.

Interstate projects will have a Federal share of not to exceed 90 percent. Routes designated as Interstate under section 139(a) and 139(b) of title 23 prior to March 9, 1984, and under section 139(c) of title 23 will be able to be improved at a 90-percent Federal share. These percentages may be increased in certain circumstances under current law.

This section provides that the Federal share payable for a highway emergency relief project shall be the same as for a regular Federal-aid highway project on the system in question except that the Federal share payable may be 100 percent only for emergency work done in the first 30 days after the occurrence of the event that triggers emergency relief.

This section also provides that States may contribute amounts in excess of the normal State share on all title 23 projects.

SECTION 109—RELOCATION OF UTILITY FACILITIES

This section amends section 123(a) of title 23 to clarify that Federal-aid highway funds may participate in utility relocation payments legally made by a State for utility relocations necessitated by the actual construction of a highway project and for safety improvements under a State's safety improvement program.

This section also eliminates the requirement in the existing section 123(a) that limits Federal reimbursement to only those utility relocation payments made by a State with its own funds. This would establish consistency with the overall Federal-aid program by allowing the State to obtain all or portions of its pro-rata share of the costs for the utility work from other parties, such as the utilities or political subdivisions, if it so desires.

SECTION 110—EMERGENCY RELIEF

This section amends section 125 of title 23 to make the territories eligible for emergency relief with a $5 million cap on obligations during any one fiscal year.

SECTION 111—VEHICLE WEIGHT LIMITATIONS—INTERSTATE SYSTEM

This section amends section 127(a) of title 23 to provide for the withholding of the Interstate construction portion of Federal-aid Interstate-primary funds, in lieu of withholding Interstate construction funds, for violations of section 127. The change is needed as Interstate construction funds will be unavailable to withhold. The current penalty provision in section 127(a) is revised to provide that any withheld funds do not lapse if they are subsequently released and obligated within the normal four year availability period.

SECTION 112—TOLL FACILITIES

This section incorporates the toll provisions of section 105 of the Federal-Aid Highway Act of 1978 into section 129 of title 23 and clarifies a provision of section 105 concerning the repayment of Federal funds.

This section also requires toll authorities to certify to the Governor that sufficient reserves are available to cover the construction, operation, maintenance, and repair or replacement of the toll facilities not eligible for Federal-aid highway funds. The Governor is to transmit this information to the Secretary who will transmit it to Congress. If funds from the Highway Trust Fund are spent on these toll facilities, an equal amount will be deducted from the State's Federal-aid highway apportionments the following year. This section does not apply to international toll facilities and those toll facilities covered by a section 105 or section 129 agreement.

SECTION 113—RAILWAY-HIGHWAY CROSSINGS

This section incorporates the provision of section 203 of the Highway Safety Act of 1973 into section 130 of title 23 and makes technical and conforming amendments.

SECTION 114—STRATEGIC HIGHWAY RESEARCH PROGRAM

This section adds a provision for SHRP to title 23, United States Code. SHRP will be funded by deducting one-quarter of one percent from funds authorized for the programs specified in subsection 104(c) of title 23, United States Code. The Secretary will carry out SHRP in cooperation with State highway departments and will set standards for the use of the funds to conduct research, development and technology transfer activities determined to be strategically important to the national highway transportation system. The Secretary may provide grants to and enter into compensation agreements with the American Association of State Highway and Transportation Officials and the National Academy of Sciences to conduct appropriate portions of SHRP. Advance payments may be made under such agreements. No State matching share is required for SHRP and the funds will remain available for four years. This section also provides that the National Academy of Sciences will be treated as a federal agency in the case of any litigation which may result from the implementation of SHRP.

SECTION 115—SECTION 139 ROUTES

This section makes amendments to sections 139 (a), (b), and (c) of title 23 to conform with the new Interstate-primary category. This section also provides that routes designated by section 139 are eligible for any of the funds provided by the Interstate-primary program.

SECTION 116—OFF-SYSTEM BRIDGE PROGRAM

This section permits a State to credit State-only financed off-system bridge replacement and rehabilitation projects toward the State share of the cost of other Federal-aid bridge projects. Off-system bridges that are eligible for section 144 funds, are noncontroversial, and certified by the State to have been carried out in accordance with all standards applicable under section 144 of title 23 are eligible for this program.

SECTION 117—HIGHWAY BEAUTIFICATION

Subsection (a)(1) amends section 131(b) to clarify the authority that the Secretary has under current law to impose a sanction on a State for failure to effectively control billboards. The current statute provides a penalty of a mandatory 10 percent withholding of funds apportioned under section 104 of title 23. This provision gives the Secretary discretion to impose a penalty of up to 5 percent.

Subsection (a)(2) provides:

(1) that each State has a permit system or an accurate inventory of billboards along Interstate and primary highways. The inventory must be adequate for the State to determine whether new illegal or nonconforming signs have been erected. By allowing the Secretary to certify a permit program in lieu of an inventory, States are encouraged to adopt adequate permit and surveillance techniques which conform to requirements established by the Secretary;

(2) that States remove illegal, or nonconforming signs which have been compensated, within 90 days of the date on which they can first be removed;

(3) that the State prevent the removal of vegetation or landscaping alterations in the highway right-of-way solely for the purpose of improving the visibility of a sign, display, or device located outside of the right-of-way;

(4) that the State prevent owners of billboards from taking steps to enhance the useful life and/or profitability of illegal or nonconforming signs. Such alteration is inconsistent with the well established land use doctrine that nonconforming uses may not be modified; and

(5) that billboard advertising must contain a warning whenever Federal laws and regulations require warning labels regarding health hazards associated with products being advertised. The warning must be visible from the highway.

Subsection (a)(3) amends section 131(d) to provide for a moratorium on the construction of new billboards on the Interstate and Primary System. This provision does not effect signs permitted under subsection (c). These signs include "official" signs, "on premises" signs, "historic" signs, and "free coffee" signs. Once this provision is enacted, signs erected after July 1, 1986, will become nonconforming.

Subsections (a)(4), (a)(5) and (a)(7) amend sections 131(g), (k), (n) and (p) to restore the choice to the State of using either cash compensation or amortization. If a State chooses to provide cash compensation, it can use its Federal-aid apportionments to provide a matching share. Subsection (a)(4) also amends section 131(g) to prevent the practice where a State pays for a billboard and then sells the material back to a person for salvage value and this person then uses the material to erect yet another billboard.

Subsection (a)(5) amends section 131(h) to correct a deficiency in Federal law by clearly requiring Federal land owning or land controlling agencies to issue proper control regulation for billboards. It is recognized that many Federal agencies already have such requirements.

Subsection (b) provides a period of time for States to make conforming changes to State laws if necessary.

SECTION 118—MINIMUM ALLOCATION

This section amends section 157 to title 23 to add total allocations as well as apportionments to the calculation of the 85 percent minimum funds and makes the provision permanent law. This will provide donor States a return closer to 85 percent of the amount contributed to the Highway Trust Fund by these States. Currently, in calculating the return of 85 percent minimum to the States, only apportioned programs are considered. Two major categories are added which are bridge discretionary and emergency relief. Several smaller Highway Trust Fund categories shall also be included.

Subsection (b) makes the provisions of subsection (a) effective October 1, 1986.

Subsection (c) provides authorizations for the minimum allocation for fiscal years 1987, 1988, 1989, and 1990.

SECTION 119—FEDERAL-AID INTERSTATE-PRIMARY PROGRAM

This section amends title 23 to establish the Federal-Aid Interstate-primary Program. The Interstate-primary program will emphasize bringing all elements of the Primary System to acceptable standards of operation and safety. The program will consist of both new construction and 4R work on the Primary System and the Interstate System (including additions thereto under section 139). The Interstate-primary program will include traditional primary program projects, Interstate construction projects, and Interstate resurfacing, restoration, rehabilitation and reconstruction projects.

The designated Interstate System in all States will receive attention in maintaining its high level of serviceability. At the same time, there is sufficient flexibility to allow States to concentrate on neglected primary routes and other primary routes which have developed into significant Interstate traffic carriers.

SECTION 120—INCOME FROM RIGHTS-OF-WAY

This section provides that the net income a State receives from the use, lease, or sale of right-of-way airspace acquired as a result of a project under title 23 shall be used for projects under chapter 1 of title 23. This section is effective October 1, 1986.

SECTION 121—TERRITORIAL HIGHWAY PROGRAM

This section amends subsection (f) of section 215 to clarify that the provisions of Chapter 1 of title 23 which are applicable to Interstate-primary program funds and the Primary System are applicable to the Territorial Highway Program. Subsection (f) also authorizes a Federal-aid system in each territory similar to the Primary System established by the provisions of the STAA of 1982 and provides that the Secretary may determine the applicability of the provisions of Chapter 1.

SECTION 122—BICYCLE PROJECTS ELIGIBILITY

This section permits States to use Federal-aid highway funds apportioned or allocated for a highway substitute project for the purpose of designing and constructing bicycle facilities.

SECTION 123—HIGHWAY PLANNING AND RESEARCH

This section permits a State to use one and one-half percent of apportioned Interstate Highway Transfer funds for highway planning and research activities. It would not include the 25 percent of transfer funds that are allocated.

SECTION 124—NATIONAL HIGHWAY INSTITUTE

This section modifies section 321 of title 23 to direct the Secretary to provide training at no cost to States and local governments for subject areas which are a Federal program responsibility and to allow the States to use Federal-aid funds to pay 75 percent of the cost of education and training purchased from any source including the National Highway Institute.

SECTION 125—RIGHT-OF-WAY DONATION

Subsection (a) allows 100 percent of a private contribution of right-of-way to be credited, according to its fair marklet value at the time of donation, to the State's matching share for the project if the donation is made to the State. A State would receive no credit for the excess of a donation which exceeded the State matching share for the project.

Subsection (b) amends title 23 to provide that land may be donated in advance of the environmental and planning process for a prospective highway project. The donation will in no way affect the required planning process for the location and environmental review of the decision with respect to alignment. If during the alignment study and environmental analysis the route for which the land was donated is determined not to be feasible, the donation of right-of-way would be cancelled and the land revested in the grantor or sucessors in interest.

Subsection (c) amends title 42 to permti donations of right-of-way and financial contributions to a State or other political subdivision. The provision also encourages the promotion of such joint projects wherein private citizens and governmental entities participate in the cost of projects as consistent with Federal policy.

Subsection (d) allows the fair market value of lands donated or dedicated to California for the relocation and construction of State Route 73 in Orange County from I–405 to I–5 to be credited to the State's matching share of the project and any excess value to be credited toward the State's share of the cost of any other Federal-aid project. Any recorded irrevocable offer of dedication for donation effective prior to the State's request for final reimbursement on the project shall be considered a part of the State right-of-way acquisition. The Federal-aid reimbursement may not exceed the actual cost to the State for the project.

SECTION 126—PROHIBITION AGAINST DISCLOSURE AND ADMISSION AS EVIDENCE OF STATE REPORTS AND SURVEYS

This section amends title 23 to provide that no report, survey, schedule, list, or data compiled for the purpose of complying with any requirement of sections 130, 144 and 152 of title 23, United States Code, or for developing any highway safety construction improvement project which may be implemented with Federal-aid highway funds shall be required to be admitted into evidence or used in any action for damages arising from matters mentioned or addressed in such documents.

SECTION 127—BUY AMERICA

This section exempts projects costing $500,000 or less from domestic content requirements. Reestablishment of such a threshold provision will help to reduce administrative burdens and facilitate the highway and transit procurements of grantees with small projects, and lower the cost of the highway and transit programs.

SECTION 128—REGULATION OF TOLLS

This section removes Federal regulation and review of toll increases on certain toll bridges. Toll increases on these deregulated facilities must be just and reasonable but will not be subject to review by DOT.

SECTION 129—INDIAN EMPLOYMENT AND CONTRACTING

This section brings the antidiscrimination provision of section 140 of title 23, United States Code, into conformity with title VII of the 1964 Civil Rights Act of the issue of Indian preference in employment and contracting for certain Federal-aid highway projects.

SECTION 130—DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

This section authorizes a Disadvantaged Business Enterprise (DBE) program which establishes goals to encourage the participation of disadvantaged business enterprise.

Subsection (a) requires States to expend 10 percent of Federal-aid highway contracts with DBEs unless the Secretary determines otherwise.

Subsection (b) defines a disadvantaged business enterprise. The definition includes a small business owned and controlled by socially and economically disadvantaged individuals provided that annual average gross receipts do not exceed $10 million. Women are also included in the rebuttable presumption of being disadvantaged.

Subsection (c) would allow costs incurred by State and local governments and prime contractors in assisting disadvantaged businesses in meeting the goal. These costs cannot be used to meet more than 10 percent of the DBE contract.

Subsection (d) would require the Secretary to establish minimum uniform criteria for State governments to use in certifying whether a concern is a disadvantaged business enterprise for the purpose of this section.

Subsection (e) requires that a DBE subcontractor perform at least 30 percent of the subcontract work with its own organization in order for the work to count towards a State's DBE goal. Certain exceptions can be made to the 30 percent requirement.

Subsection (f) provides that States must contract part of their DBE goal directly with DBE firms beginning in 1988.

SECTION 131—RELEASE OF CONDITION RELATING TO CONVEYANCE OF A CERTAIN HIGHWAY

This section relieves the State of Maryland from the obligation of accepting title to the Baltimore-Washington Parkway in return for Federal participation in improvements to the Parkway as required under section 146 of the Federal-Aid Highway Act of 1970.

SECTION 132—WASTE ISOLATION PILOT PROJECT

This section authorizes $58 million out of general revenues to upgrade certain roads in the State of New Mexico. This authorization fulfills an agreement among the State of New Mexico, the Department of Energy and the Department of Transportation for the upgrading of roads in the vicinity of the Waste Isolation Pilot Project (WIPP). This facility is being built as a long-term repository for storage of low-level nuclear wastes from around the country.

SECTION 133—OBLIGATION LIMITATION

This section establishes an obligation limitation of $12.35 billion for fiscal year 1987, $12.35 billion for fiscal year 1988, $12.35 billion for fiscal year 1989 and $12.35 billion for fiscal year 1990. The Emergency Relief and Minimum Allocation funds are not subject to the obligation limitation.

SECTION 134—HISTORIC BRIDGES

This section encourages the preservation of historic bridges. Subsection (a) establishes that it is in the national interest to preserve historic bridges.

Subsection (b) directs the Secretary to cooperate with the States in implementing section 144 of title 23 in a manner which promotes the preservation of historic bridges.

Subsection (c) requires States to identify historic bridges on the National Bridge Inventory.

Subsection (d) clarifies that any reasonable costs associated with mitigating harm to an historic bridge would be eligible for Federal-aid bridge funds if the bridged remains part of the highway system.

Subsection (e) permits States to use bridge funds equal to the cost of demolition for preserving an historic bridge eligible for demolition if they, or any other responsible entity, sign an agreement taking future legal and financial responsibility for the bridge.

Subsection (f) defines an historic bridge as any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

Subsection (g) requires the Transportation Research Board to review the rehabilitation of historic bridges and develop recommendations for specific standards for the rehabilitation of historic bridges.

SECTION 135—FOREST HIGHWAYS

This section provides that two-thirds of the Forest Highway funds are allocated according to the formula used prior to the STAA of 1982 and one-third is allocated according to section 202(a) of title 23.

SECTION 136—WILDFLOWERS

This section requires that one-quarter percent of Federal-aid highway funds expended for landscaping on a project be for the planting of wildflowers or seedlings. The requirement can be waived if a State certifies that the planting of such wildflowers is not feasible because of conditions with respect to the particular project on which landscaping funds are expended. Public donations of wildflowers or seedlings are allowed.

SECTION 137—COMBINED ROAD PLAN DEMONSTRATION PROGRAM

Section 137 authorizes the Secretary to conduct a combined road demonstration program to permit up to ten States to participate in a block grant program for Federal-aid secondary, Federal-aid urban, and off-system, urban and secondary bridge projects.

The block grant program authorized in this section will help to demonstrate the feasibility of turning over greater responsibility to State officials for administering the highway program. The categories included in this initiative serve State and local highway and bridge needs and these needs can perhaps be met more effectively if greater flexibility is extended to the States.

In carrying out the block grant program the Secretary may extend to State officials certain responsibilities currently carried out by FHWA. However, all environmental requirements currently delegated to FHWA will continue to be the responsibility of FHWA.

The State of Rhode Island has expressed interest in the concept of an enhanced role for the States in administering the highway program, and it is appropriate that Rhode Island should be among those States given priority consideration for participation in the combined road demonstration program.

SECTION 138—CALIFORNIA EMERGENCY RELIEF

This section removes the Emergency Relief program cap of $30 million per year per disaster for calendar year 1986 so that California's 1986 flood disaster is eligible for Federal-aid funds for the total amount of the disaster.

SECTION 139—PRIORITY PROJECTS

This provision establishes that priority projects designated in the bill be funded from States' regular apportionments at the specific request of a State to the Secretary. No new Federal funds are authorized by this section. These priority projects must be on the Federal-aid system and must meet all the requirements of title 23. Additional flexibility is provided to States by permitting them to use any funding category with the applicable match to build such a designated priority project.

SECTION 140—NEW JERSEY-PENNSYLVANIA TOLL COMPACT

This section allows the Delaware River Joint Toll Bridge Commission to continue tolls on the existing Delaware Water Gap Bridge on I–80 and to impose tolls on the uncompleted bridge under construction on I–78. The section also amends the Interstate Compact between the State of New Jersey and the Commonwealth of Pennsylvania to allow the Commission to use the tolls collected on its toll bridges for expenses of any of the bridges under its jurisdiction.

The provisions of this section are to be construed consistently with the interpretations in the letter of the Department of Transportation dated July 21, 1986, which follows. The provisions in the first four subsections control if there is any conflict between the language in the first four subsections and the language in the last subsection regarding the changes to the Interstate Compact.

The Department of Transportation letter follows:

U.S. DEPARTMENT OF TRANSPORTATION,
GENERAL COUNSEL,
Washington, DC, July 21, 1986.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Department of Transportation would like to offer its views on S. —— a bill: "Granting the consent of Congress to a supplemental agreement between Pennsylvania and New Jersey concerning the authority of the Delaware River Joint Toll Bridge Commission, and for other purposes."

We understand that the bill will be offered as an amendment during mark-up of S. 2405. If the provisions of S. —— are construed and reported by the Committee consistent with the interpretations contained in this letter, the Department would have no objection to the adoption of S. ——. If the Committee does adopt the amendment, it would be appreciated if this letter were incorporated in the committee report on the bill.

S. —— contains provisions which would allow the Delaware River Joint Toll Bridge Commission (Commission) to continue tolls on the existing Delaware Water Gap Bridge on I-80 and to impose tolls on the uncompleted bridge under construction on I-78. Federal-aid funds have been used to finance work on both bridges. Except as authorized by an executed agreement under section 129(a) with respect to certain toll bridges and tunnels ('section 129 agreement'), highways constructed with Federal-aid funds must be free from tolls. Under certain conditions, a 129 agreement permits Federal participation in the construction of new toll bridges, toll tunnels, and approaches. Due to the complex and possible conflicting provisions of S. —— and title 23 of United States Code, the Department is offering the following comments and interpretations regarding the provisions of S. —— as they relate to title 23.

To better understand the situation which S. —— addresses, it is important to review the background of the construction of bridges across the Delaware River between the States of New Jersey and Pennsylvania. In the 1960's, the Federal Highway Administration (FHWA) adopted a policy which, in effect, resulted in the withholding of permits requested for construction of toll bridges across the Delaware River by the Federal government. The policy was based on a determination that interlocking financing of the construction costs of the toll bridges would delay the freeing of other toll bridges and result in preventing the timely completion of proposed Interstate free bridges in the area. Also, bond financing agreements prevented the construction of free bridges within ten miles of a toll bridge. The Commission filed suit petitioning the Court to compel the Federal government to take action on the construction permits. Pursuant to the Court's direction, a Memorandum of Understanding (MOU) was executed on May 21, 1986, between the FHWA, New Jersey, Pennsylvania, and the Commission. The MOU covered five bridges as follows:

1. The existing bridge located at Delaware Water Gap on I-80 was to be made free of tolls after December 31, 1990.
2. The bridge between Easton and Phillipsburg (I-78) was to be constructed as a free bridge within ten miles of an existing toll bridge.
3. The bridge between Lambertville and New Hope (Route 202) was to be constructed by the Commission as a toll facility.
4. The bridge between Morrisville and Trenton at Calhoun Street was to be constructed by the Commission as a toll facility.
5. The bridge between Bristol and Burlington on I-895 was to be constructed as a free bridge.

Although the MOU was executed pursuant to judicial mandate, certain statutory constraints nonetheless affected the provisions of the MOU. Since the jurisdictions involved agreed to free the existing I-80 bridge, Federal-aid funds were used on the Pennsylvania approaches to the bridge. To this extent, the 1968 Agreement became a statutory agreement implementing 23 U.S.C. § 129(a) when the Federal-aid funds were requested. Since Federal-aid funds were obligated for preliminary engineering and right-of-way acquisition and construction on the I-78 bridge, the toll-free provisions of 23 U.S.C. § 301 apply. When plans to construct the I-895 bridge were withdrawn with FHWA approval on September 30, 1980, the Interstate withdrawal provisions of 23 U.S.C. § 103(e)(4) became applicable. As a result, the jurisdictions provided assurances that the states did not intend to construct a toll road in the traffic corridor which would be served by the withdrawn route or portion thereof.

The Department has no administrative authority to waive the statutory constraints of title 23 or to accept a repayment of Federal-aid funds to relieve a state from the statutory requirements for freedom from tolls. The Administration's proposed reauthorization bill (S. 2189) would amend 23 U.S.C. § 129 to add more flexibility to toll financing for Federal-aid highways and bridges and would repeal the toll rate provisions of the Bridge Acts (33 U.S.C. § 491 et seq.). However, under present law and our proposed changes, action by the Congress would be necessary to effectuate the intent of the Supplemental Agreement or Compact as drafted.

The language of the Supplemental Agreement is contained in section 6 of S. ——, substantially in the form that it was enacted by the States of Pennsylvania and New Jersey. We would have had serious concerns with some of the provisions in the Supplemental Agreement if the intent of those provisions had not been clarified and limited in sections 1-5. We believe that S. —— would have the following effect in relation to provisions of title 23 and title 33.

Section 1 would require the repayment of Federal funds used on the I-80 Delaware Water Gap Bridge and approaches. After repayment, the States and the Commission would be free of all restrictions in title 23 U.S.C. and the 1968 Agreement with respect to the collection of tolls on this bridge. It is the Department's understanding that the funds would be repaid in a lump sum shortly after enactment of the legislation.

Section 2 would authorize the execution of a 23 U.S.C. § 129 agreement if the States and the Commission decide to operate I-78 as a toll bridge, notwithstanding the provisions of 23 U.S.C. § 301 or the 1968 Agreement. If existing section 129 of title 23 is not amended, a 129 agreement covering I-78 would be required to be executed. Pursuant to the 129 agreement, the Commission would commit to free the bridge of tolls when the states' share of the cost of construction was recovered from tolls. Interlocking financing or increasing indebtedness, as authorized by the Compact provisions of section 6 of the bill, would not be permitted as to this bridge under current law. If section 129 is amended as proposed by the Administration, the 129 agreement could allow the tolls to be collected in perpetuity, provided that the proceeds were used to finance highway or bridge construction. In addition, under our proposal, the States and the Commission would have to agree to apply toll revenues in excess of funds needed for maintenance, operation, debt service and necessary resurfacing, reconstruction, rehabilitation and restoration of I-78 for highway construction projects on any public road.

Section 3 would ensure that nothing in the amendment is intended to give the Commission a special status under the General Bridge Act of 1906, the Act of August 21, 1935, and the General Bridge Act of 1946, (see generally, 33 U.S.C. §§ 491–533.) Specifically, 33 U.S.C. 526 provides that the Secretary of Transportation may prescribe "reasonable rates" for passage over bridges between states. As long as this provision applies generally to other interstate bridges, it would apply to the Commission's bridges as well. This subsection should not be construed to create a new or independent role of review and approval by any federal agency. If the general bridge statutes were modified, this section should be read consistently with those other revisions. This section does not address other Federal laws and requirements that may be applicable to the construction, operation or maintenance of the bridges generally, since nothing in the language of section 6 attempts to affect the applicability of these other laws. Therefore, nothing in this bill affects requirements such as the need to obtain Federal permits for certain types of bridge construction or the applicability of Federal environmental laws.

Section 4 would make clear that the bill does not authorize the imposition of tolls on the 11 free bridges under the jurisdiction of the Commission. We understand that this language was included to limit the compact provisions of section 6 of the bill which arguably could be construed otherwise.

Section 5 would maintain the applicability of the provisions of 23 U.S.C. § 103(e)(4) regarding assurances that the States will not construct a new toll road or toll bridge in the traffic corridor of withdrawn I–895. The Commission could build a replacement facility for an existing toll bridge if the existing toll bridge were closed.

Section 6 contains the changes to the Interstate Compact that have been adopted by the two States. As described above, the language of section 6 is clarified and limited by the other sections of the bill.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

ROSALIND A. KNAPP,
Deputy General Counsel.

SECTION 141—MOTOR VEHICLE STUDY

During hearings, witnesses expressed concerns about larger and heavier trucks. Section 141 directs the Secretary to make arrangements with the Transportation Research Board of the National Research Council to conduct a study of the motor carrier industry.

Among the subjects for analysis are: existing grandfather clauses which allow for higher axle loads and gross vehicle weights; the current bridge formula and its relationship to trucks and existing bridges; special truck permits and the circumstances for which they are issued; appropriate treatment for motor vehicles unable to comply with the current bridge formula; and associated costs and benefits.

TRB shall consult with DOT, State highway and transportation agencies, the motor carrier industry, highway safety groups, and other interested parties throughout the course of the study and shall submit a final report to the Secretary, to be transmitted to the Senate Environment and Public Works Committee and the House Public Works and Transportation Committee of the Congress. A total of $500,000 for fiscal year 1987 and the same amount for fiscal year 1988 is authorized to be appropriated out of the Highway Trust Fund for the study. The final report is due no later than 30 months after enactment of this legislation.

SECTION 142—RAIL-HIGHWAY CROSSINGS STUDY

The most recent major assessment of rail-highway crossing needs was done in the early 1970s. A report was made to Congress at that time, leading in turn to passage of section 203 of the Highway Safety Act of 1973. Since then, there has been a large investment of Federal-aid highway funds to improve safety conditions at crossings.

The earlier study focused on crossing problems for both railroad and highway traffic. The major recommendation was for approximately 30,000 active warning devices to be installed. It is appropriate for a new study to be undertaken of developments in the last 20–25 years. In particular, the Committee is interested in an evaluation of the present program; a study of needs and of responsibilities, including those for maintenance, abandoned bridges, and Conrail crossings; an analysis of driver behavior; and a review of the effectiveness of the rail-highway demonstration program. It is intended that the new, broader report address safety, mobility, and capacity issues as they relate to improvement and maintenance needs.

A total of $600,000 is authorized for the purpose of performing the study. The Secretary is directed to conduct the study and report findings to the Senate Environment and Public Works Committee and the House Public Works and Transportation Committee of the Congress no later than 24 months after enactment of this legislation.

SECTION 143—INTERIM AMENDMENTS

Subsection (a) provides that unobligated Interstate construction balances (apportioned or allocated) shall remain available until October 1, 1990, for Interstate construction projects. Unallocated Interstate discretionary funds are to be distributed using existing procedures.

Subsection (b) makes the unobligated balances previously apportioned to a State under subsection 104(b)(1) (Primary System program) and 104(b)(5)(B) (Interstate 4R program) of title 23, United States Code, as they existed prior to enactment of this legislation available for obligation for projects under the Federal-aid Interstate-primary program.

Subsection (c) makes the unobligated balances of funds apportioned to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands under the provisions of section 108 of the Highway Improvement Act of 1982 available for obligation under the provisions of section 215 of title 23, United States Code.

Subsection (d) makes the unobligated balances of funds apportioned to a State under section 203 of the Highway Safety Act of 1972 available for projects under section 130 of title 23, United States Code.

SECTION 144—TECHNICAL AMENDMENTS

This section makes needed technical and conforming amendments.

This section also conforms the provisions of the Uniform Minimum Drinking Age Act of 1984 (P.L. 98-363), as amended by the Budget Reconciliation Act for fiscal year 1986, to the changes made in Intestate and primary highway construction funding contained in the bill. The bill makes no changes to the Uniform Minimum Drinking Age Act and its intent to withhold a portion of Federal-aid highway assistance from those States which fail to adopt a legal minimum age of 21 by October 1, 1986, as specified in Federal regulations.

SECTION 145—EFFECTIVE DATE

This section specifies that unless otherwise provided, the effective date of the Federal-Aid Highway Act of 1986 is October 1, 1986.

HEARINGS

The Transportation Subcommittee of the Committee on Environment and Public Works conducted ten days of hearing on the Federal-aid highway program. The hearings began in July 1985 in Washington, D.C.

Testimony was received from Members of Congress, the Congressional Budget Office, industry representatives, environmentalists, citizens' groups, professional associations, and Federal, State, and local officials.

Subjects discussed during the hearings on July 10, 11, 18 and 31 included the financial status of the Highway Trust Fund, implementation of the Surface Transportation Assistance Act of 1982, approval of the Interstate Cost Estimate and Interstate Substitute Cost Estimate, funding levels, formulas, toll facilities, completion of the Interstate program, the 85 percent minimum allocation program, the Strategic Highway Research Program, highway beautification, cost allocation, safety, the disadvantaged business enterprise program, and specific highway projects.

Field hearings were held in Boise, Idaho on August 29, and in Coeur d'Alene, Idaho on September 28, with witnesses testifying on the highway program and revenue issues.

The remainder of the hearings were held in Washington, DC. On November 6, views were received on the Hawaii Interstate H-3 project and on November 19, on the disadvantaged business enterprise program.

Transportation Secretary Elizabeth Hanford Dole testified on the reauthorization of the Federal-aid highway program on March 6,

1986. She was accompanied by the highway and transit modal administrators, Ray A. Barnhart and Ralph L. Stanley.

The hearings were concluded May 20, with testimony on S. 2405, the Federal-Aid Highway Act of 1986.

ROLLCALL VOTES DURING COMMITTEE CONSIDERATION

During consideration of this bill by the Committee on Environment and Public Works, five rollcall votes were taken. In accordance with section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works, those votes are recorded below.

On July 23, 1986, Senator Stafford moved adoption of an amendment on highway beautification. The motion was adopted by a vote of 11 to 4 with Senators Stafford, Baucus, Bentsen, Chafee, Domenici, Durenberger, Hart, Humphrey, Lautenberg, Mitchell, and Moynihan voting in the affirmative. Senators Abdnor, Burdick, Simpson, and Symms voted in opposition.

Committee members next voted on an amendment offered by Senator Symms to eliminate the uniform goal in the disadvantaged business enterprise program. The motion failed on a tie vote of 7 to 7. Senators Stafford, Chafee, Domenici, Durenberger, Hart, Lautenberg, and Moynihan voted in the negative. Senators Abdnor, Bentsen, Burdick, Humphrey, Mitchell, Simpson, and Symms voted in the affirmative.

Senator Symms moved adoption of an amendment to raise the obligation limitation to $13.125 billion. The motion was defeated by a vote of 8 to 5, with Senators Stafford, Abdnor, Chafee, Domenici, Durenberger, Humphrey, Mitchell, and Simpson voting in the negative. Senators Baucus, Burdick, Lautenberg, Moynihan, and Symms voted in support of the measure.

Senator Symms moved adoption of an amendment to raise the current threshold in Davis-Bacon law to $500,000. The motion was defeated by a vote of 8 to 6, with Senators Stafford, Baucus, Burdick, Durenberger, Hart, Lautenberg, Mitchell, and Moynihan voting in opposition. Those in support of the amendment were Senators Abdnor, Chafee, Domenici, Humphrey, Simpson, and Symms.

In the final rollcall vote, Senator Symms moved to report the bill, as amended, from Committee. The motion was adopted by a vote of 15 to 0, with Senators Stafford, Abdnor, Baucus, Bentsen, Burdick, Chafee, Domenici, Durenberger, Hart, Humphrey, Lautenberg, Mitchell, Moynihan, Simpson, and Symms voting in support of the motion.

EVALUATION OF REGULATORY IMPACT

Section 11(b) of rule XXVI of the Standing Rules of the Senate requires the committee to evaluate the regulatory impact of the reported bill. It is not anticipated that this bill will impose any significant new regulatory burden.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires ecah report to contain a statement of the cost of the reported bill prepared by the Congressional Budget Office. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washingtion, DC, August 5, 1986.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2405, the Federal-Aid Highway Act of 1986.

If you wish further details on the estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2405.
2. Bill title: Federal-Aid Highway Act of 1986.
3. Bill status: As orderd reported by the Senate Committee on Environment and Public Works, July 23, 1986.
4. Bill purpose: The bill provides four-year authorizations (from 1987 through 1990) for highway programs. For the 1987-1990 period, the bill provides $40 billion in additional budget authority, and authorizes appropriations totaling $0.09 billion. S. 2405 also establishes annual obligation ceilings of $12.35 billion for the federal-aid highway program in fiscal years 1987-1990, and amends current law to reduce the number of programs exempt from the limitation.

S. 2405 directs the Secretary of Transportation to estimate the cost of completing eligible interstate substitute projects at the beginning of each fiscal year, and to apportion funds for the federal share of such projects. This provision would obviate the current requirement for annual Congressional approval of the Interstate Substitute Cost Estimate before federal funds can be released to the states.

The bill also merges three existing programs: Interstate construction, interstate 4R (resurfacing, restoration, rehabilitation, and reconstruction), and the primary system. In each of the fiscal years 1987 through 1990, a total of $8.15 billion would be authorized for the new Federal-aid Interstate-Primary Program, abut $1.0 billion less than was authorized for the three programs in fiscal year 1986. The funds would be apprortioned to states largely on the basis of existing formulas, including $3.0 billion annually based on each state's percentage of the total cost of complete construction of the Interstate System. This new program would no longer require annual Congressional approval of an Interstate Cost Estimate before the funds are apportioned to states. The bill also permits more flexibility in transferring funds between programs for secondary and federal-aid urban system roads.

S. 2405 also changes the formula on which the highway minimum allocation program is based to include discretionary funds allocated to states under certaim programs.

5. Cost to the Federal Government: S. 2405 provides direct spending authority from the Highway Trust Fund, and also authorizes appropriations from both the trust fund and general fund. The table below summarizes the total costs of the bill-showing both the total spending for the programs authorized by the bill (including outlays from previous years' authority), as well as spending changes relative to current law (which do not include outlays from previsous years' authority). Tables 1-3 attached provide more detailed information for specific programs authorized by the bill.

SUMMARY TABLE

[By fiscal years, in millions of dollars]

	1987	1988	1989	1990	1991
Program totals:					
Budget authority/Authorization level	13,134	13,083	13,082	13,082	....
Estimated outlays	13,780	13,210	13,310	13,230	11,030
Change relative to current law:					
Budget authority/Authorization level	9,034	8,983	8,982	12,982	....
Estimated outlays	110	−560	1,540	8,860	8,780

The bill also permits the State of New York to repay the Federal Government less money than would be required under current policy for property purchased to build the proposed Westway project. The State originally purchased the land for about $90 million, and was reimbursed by the federal government for 90 percent of the cost. Since the segment has been removed from the Interstate system, the State is required to pay the federal government 90 percent of the fair market price for the land, or 90 percent of the sale proceeds. The land is now estimated to be worth substantially more than the purchase price, but S. 2405 would allow the state to repay only the amount of the original federal investment (about $80 million). While the amount that would be paid under current law is uncertain, some estimates indicate that the current value of the land could be as high as $200 million; if so this provision could reduce the payment to the federal government by as much as $100 million.

The costs of this bill would fall in budget function 400.

Basic of estimate: CBO assumes that all funds authorized by the bill will be appropriated prior to the beginning of each fiscal year. Outlays are based on historical spending rates.

S. 2405 rescinds annual authorizations of $4 billion for fiscal years 1987 through 1990 for the Interstate construction program. The $4 billion levels in current law were established in the Surface Transportation Assistance Act of 1982 (STAA). The STAA also authorized the emergency relief program, and provided $100 million annually for the program for an indefinite period of time. These previously authorized amounts are not included as a cost of this bill. Outlays for the federal-aid highway program are controlled primarily by the annual obligation ceiling. S. 2405 establishes annual ceilings of $12.35 billion, which are lower than current law for fiscal years 1987 and 1988. The Comprehensive Omnibus Budget Reconciliation Act of 1986, Public Law 99-272, imposed obligation ceilings of $13.525 billion for fiscal year 1987 and $14.1 billion for fiscal year 1988 ($1.175 billion and $1.75 billion, respectively, higher than S. 2405). As a result, this bill would reduce outlays for the federal-aid program, compared to current law. Under the bill, obligations for minimum allocation and emergency relief would remain exempt from the ceiling, as they are under current law, but obligations from several small programs that are currently exempt, expected to total about $15 million in 1987, would be included under the ceiling.

6. Financing mechanism: S. 2405 provides direct spending authority, in the form of contract authority, and authorizes funding to be provided in appropriation bills. For those programs that receive contract authority, this estimate shows the amount of such authority, with outlays generally based on obligation ceilings established in the bill. For other programs, the estimate presents budget authority that is authorized to be appropriated, and the estimated outlays that would be generated if the Congress chooses to fully fund the authorized amounts.

7. Estimated cost to State and local governments: Much of the funding provided by the bill is in the form of grants to state and local governments. Several provisions would affect the allocation of funds among states as well as the allowed uses of funds by state and local recipients. In addition, the bill alters cost-sharing arrangements for certain types of projects.

The provision of Title I that modifies the State of New York's repayment obligations for the proposed Westway project would result in savings to the state, possibly as much as $100 million.

8. Estimate comparison: None.

9. Previous CBO estimate: On July 2, 1986, the Congressional Budget Office prepared a cost estimate for H.R. 3129, the Surface Transportation and Uniform Relocation Assistance Act of 1986, as ordered reported by the House Committee on Public Works and Transportation, June 25, 1986. That bill provided five-year authorizations for highway, highway safety, and mass transit programs, and amended the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970.

H.R. 3129 authorized additional budget authority of about $9.7 billion annually for the federal-aid highway program, compared to about $9.0 billion in S. 2405. That bill also established annual obligation ceilings of $12.6 billion, compared to $12.35 billion in the Senate bill. In addition, H.R. 3129 authorized National Highway Traffic Safety Administration and mass transit programs, which are not included in S. 2405. The estimated costs reflect these differences.

10. Estimate prepared by: Marjorie Miller.

11. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

TABLE 1.—FEDERAL-AID HIGHWAY AUTHORIZATIONS

[By fiscal years, in millions of dollars]

	1987	1988	1989	1990	1991
Budget authority:					
Federal-aid Interstate-Primary Program	8,150	8,150	8,150	8,150	
Interstate substitute	650	650	650	650	
Secondary	600	600	600	600	
Urban	750	750	750	750	
Indian Reservations	75	75	75	75	
Forest highways	50	50	50	50	
Public Lands Highway Program	50	50	50	50	
Park roads and parkways	75	75	75	75	
Territorial Highway Program	12	12	12	12	
Minimum allocation [1]	700	700	700	700	
Bridge replacement and rehabilitation	1,500	1,500	1,500	1,500	
Hazard elimination	175	175	175	175	
Railroad-highway crossings	175	175	175	175	
Emergency relief	100	100	100	100	
Total budget authority	13,062	13,062	13,062	13,062	
Less: Existing budget authority	4,100	4,100	4,100	100	
Total additional budget authority	8,962	8,962	8,962	12,962	
Obligation ceiling	12,350	12,350	12,350	12,350	
Outlays:					
Estimated total outlays [2]	13,740	13,160	13,280	13,210	11,010
Estimated change in outlays relative to current law	−120	−600	1,520	8,840	8,760

[1] S. 2405 authorizes such sums as may be necessary. Estimates are based on information provided by FHWA.

[2] Including outlays from authority available before fiscal year 1987, and for emergency relief, which is authorized in current law for these years.

Note: Details may not add because of rounding.

TABLE 2.—DIRECT SPENDING—HIGHWAY-RELATED SAFETY GRANTS

[By fiscal years, in millions of dollars]

	1987	1988	1989	1990	1991
Budget authority	10	10	10	10	
Estimated total outlays	11	11	10	10	8
Estimated change in outlays relative to current law	2	5	8	10	8

TABLE 3.—AUTHORIZATIONS OF APPROPRIATIONS

[By fiscal years, in millions of dollars]

	1987	1988	1989	1990	1991
Waste Isolation Pilot Project [1]	51				
FHWA 403 (Highway Safety R&D)	10	10	10	10	
Studies	1	1			
Total authorizations	62	11	10	10	
Estimated total outlays	28	43	21	13	10
Estimated change in outlays relative to current law	12	34	16	12	10

[1] The bill authorizes appropriations of $58 million for fiscal year 1986 and thereafter, to remain available until expended. The fiscal year 1986 appropriation was $7 million; the remaining funds are assumed to be appropriated and obligated in fiscal year 1987.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follow: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman:

TITLE 23.—UNITED STATES CODE

Chapter 1.—FEDERAL-AID HIGHWAYS

Sec.

* * * * * * *

118. [Availability of sums apportioned.] *Availability.*

* * * * * * *

127. Vehicle weight [and width] limitations—Interstate System.

* * * * * * *

133. [[Repealed P.L. 90–495.]] *Strategic highway research program.*

* * * * * * *

146. [[Repealed.]] *Carpool and vanpool projects.*

* * * * * * *

148. [Development of a national scenic and recreational highway.] *Repealed.*

* * * * * * *

151 [Pavement marking demonstration program.] *Repealed.*

* * * * * * *

155. [Access highways to public recreation areas on certain lakes.] *Repealed.*
156. [Highways crossing Federal projects.] *Repealed.*

* * * * * * *

159. Federal-aid Interstate-primary program.
160. Income from right-of-way.

* * * * * * *

213. [Rama Road.] *Repealed.*

* * * * * * *

219. [Safer off-system roads.] *Repealed.*

* * * * * * *

409. Reports, surveys; disclosures; admission as evidence.

Sec. 101. Definitions and declaration of policy.

(a) As used in this title, unless the context requires otherwise—

* * * * * * *

[The term "park road" means a public road that is located within or provides access to an area in the national park system.]

The term "park road" means a public road that is located within, or provides access to, an area in the national park system, with title and maintenance responsibilities vested in the United States.

* * * * * * *

Sec. 103. Federal-aid systems.

* * * * * * *

[(e)(4) Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route of portion thereof on the Interstate System which was selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, or up to and including the 1983 interstate cost estimate, whichever is earlier, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of approval of each substitute project under this paragraph, or the date of approval of the 1983 interstate cost estimate, whichever is earlier; shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or projects authorized under any highway assistance program under section 103 of this title; or both, which will serve the area or areas from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located. Substitute projects under this paragraph may not be approved by the Secretary under this paragraph after September 30, 1983, and the Secretary shall not approve any withdrawal of a route under this paragraph after such date, except that this sentence shall not apply to any route which on the date of enactment of the Federal-Aid Highway Act of 1978 is under judicial injunction prohibiting its construction, and except that with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction the Secretary may approve substitute projects and withdrawals on such route until September 30, 1985. Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of each substitute project shall not exceed 85 per centum of the cost thereof. The sums apportioned under this paragraph for public mass transit projects shall remain available for the fiscal year for which apportioned and for the succeeding fiscal year. The sums available for obligation under this paragraph for projects under any highway assistance program shall remain available for the fiscal year for which apportioned and for the succeeding fiscal year. Any sums which are apportioned to a State for a fiscal year and are unobligated (other than an amount which, by itself is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of such fiscal year shall be apportioned among those States which have obligated all sums (other than such an amount) apportioned to them for such fiscal year, in accordance with the latest approved estimate of the cost of completing the appropriate substitute projects in such States. The sums obligated for mass transit projects shall become part of, and be administered through, the Urban Mass Transportation Fund. For the fiscal year ending September 30, 1983, $257,000,000 shall be available out of the Highway Trust Fund for expenditure at the discretion of the Secretary for projects under highway assistance programs. For the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, sums obligated for projects under highway assistance programs shall be paid out of the Highway Trust Fund, and $700,000,000 shall be available for expenditure during each of the fiscal years ending September 30, 1984, and September 30, 1985, and $725,000,000 shall be available for expenditure during the fiscal year ending September 30, 1986. Twenty-five per centum of the funds available from the Highway Trust Fund for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, for substitute highway projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal year ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal years ending September 30, 1985, and September 30, 1986. There are authorized to be appropriated for liquidation of obligations incurred under this paragraph the sums provided in section 4(g) of the Urban Mass Transportation Act of 1964. Fifty per centum of the funds appropriated for each fiscal year beginning after September 30, 1983, for carrying out substitute transit projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 50 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal year ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal years ending September 30, 1985, and September 30, 1986. Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an Interstate route or portion thereof has been approved under section 103(e)(4) of this title prior to the date of enactment of the Federal-Aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal-Aid Highway Act of 1976 shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in that State, as shown on such cost estimate, except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of such Federal-Aid Highway Act. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of this paragraph as amended by the Federal-Aid Highway Act of 1976, shall be effective as of August 13, 1973. The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph. After the date of enactment of this sentence, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law. The preceding sentence shall not apply to a designation made under section 139 of this title. After September 30, 1979, the Secretary shall not withdraw his approval under this paragraph of any route or portion thereof on the Interstate System open to traffic before the date of the proposed withdrawal. Any withdrawal of approval of any such route or portion thereof before September 30, 1979, is hereby determined to be authorized by this paragraph. Any route or segment thereof which was statutorily designed * after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.**]**

(e)(4) INTERSTATE SUBSTITUTE PROGRAM.—

(A) WITHDRAWAL OF APPROVAL.—Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw approval of any route or portion thereof on the Interstate System which was selected and approved in accordance with this title, if the Secretary determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if the Secretary receives assurances that the State does not intend to construct a

toll road in the traffic corridor which would be served by the route or portion thereof.

(B) Substitute project.—When the Secretary withdraws approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, or up to and including the 1983 Interstate Cost Estimate, whichever is earlier, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of approval of each substitute project under this paragraph, or the date of approval of the 1983 Interstate Cost Estimate, whichever is earlier, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or highway construction projects on any public road or both, which will serve the area or areas from which the Interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located. Federal-aid highway projects constructed under this paragraph shall be subject to provisions of this title applicable to the appropriate Federal-aid system. Off system highway projects constructed under this paragraph shall be subject to the provisions of this title applicable to Federal-aid secondary system projects.

(C) Deadline for withdrawal.—The Secretary shall not approve any withdrawal of a route under this paragraph after September 30, 1983, except that with respect to any route which on November 6, 1978, is under judicial injunction prohibiting its construction the Secretary may approve withdrawals until September 30, 1986, and except with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction, the Secretary may approve withdrawals on such route until September 30, 1985.

(D) Project approval; federal share.—Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of each substitute project shall not exceed 85 percent of the cost thereof.

(E) Availability of funds for substitute projects.—

(i) Time period.—The sums apportioned and the sums allocated under this paragraph for public mass transit projects or for projects under any highway assistance program shall remain available in the State of apportionment or allocation for the fiscal year for which apportioned or allocated, as the case may be, and for the succeeding fiscal year.

(ii) REAPPORTIONMENT OR REALLOCATION.—Any sums which are apportioned or allocated to a State and are unobligated (other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of the period of availability shall be apportioned or allocated, as the case may be, among those States which have obligated all sums (other than such an amount) apportioned or allocated, as the case may be, to them. Such reapportionments shall be in accordance with the adjusted estimate of the cost of completing substitute projects, and such reallocations shall be at the discretion of the Secretary.

(F) ADMINISTRATION OF TRANSIT FUNDS.—The sums obligated for mass transit projects under this paragraph shall become part of, and be administered through, the Urban Mass Transportation Fund.

(G) AUTHORIZATIONS OF APPROPRIATIONS FOR HIGHWAY PROJECTS.—For the fiscal year ending September 30, 1983, $257,000,000 shall be available out of the Highway Trust Fund for expenditure at the discretion of the Secretary for projects under highway assistance programs. There shall be available, out of the Highway Trust Fund (other than the Mass Transit Account), to the Secretary for expenditure under this paragraph for projects under highway assistance programs $700,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, and September 30, 1985 and $725,000,000 for the fiscal year ending September 30, 1986, and $650,000,000 per fiscal year for each of the fiscal years ending September 30, 1986, September 30, 1988, September 30, 1989, and September 30, 1990.

(H) DISTRIBUTION OF SUBSTITUTE HIGHWAY FUNDS.—

(i) BETWEEN DISCRETIONARY AND APPORTIONED PROGRAMS.—Twenty-five percent of the funds made available by subparagraph (G) for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990, for substitute highway projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 percent of such fund shall be apportioned in accordance with cost estimates.

(ii) 1984 APPORTIONMENT.—The Secretary shall make an estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of the Highway Improvement Act of 1982. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal year ending September 30, 1984.

(iii) 1985 AND 1986 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives

within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal years ending September 30, 1985 and September 30, 1986.

(iv) SUBSEQUENT APPORTIONMENTS.—In September of 1986 and every September thereafter, the Secretary shall adjust the Interstate substitute cost estimate established in revised Table 3, Committee print 99–171 of the Senate Committees on Environment and Public Works and on Banking, Housing, and Urban Affairs to reflect (1) changes in the amounts available to the Secretary, (2) changes in the State estimates in the division of funds between substitute highway and transit projects, (3) approval of substitute projects, and (4) the allocation and apportionment of substitute highway funds in prior fiscal years and shall use the Federal share of such adjusted estimates in making apportionments for substitute highway projects on October 1 or as soon as practicable thereafter for fiscal years subsequent to the fiscal year ending September 30, 1986.

(I) AUTHORIZATION OF APPROPRIATIONS FOR TRANSIT PROJECTS.—There are authorized to be appropriated for liquidation of obligations incurred for substitute transit projects under this paragraph the sums provided in section 4(g) of the Urban Mass Transportation Act of 1964.

(J) DISTRIBUTION OF SUBSTITUTE TRANSIT FUNDS.—

(i) BETWEEN DISCRETIONARY AND APPORTIONED PROGRAMS.—Fifty percent of the funds appropriated for each fiscal year beginning after September 30, 1983, for carrying out substitute transit projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 50 percent of such funds shall be apportioned in accordance with cost estimates approved by Congress.

(ii) 1984 APPORTIONMENT.—The Secretary shall make an estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of the enactment of the Highway Improvement Act of 1982. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal year ending September 30, 1984.

(iii) 1985 AND 1986 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal years ending September 30, 1985 and September 30, 1986.

(iv) SUBSEQUENT APPORTIONMENTS.—In September 1986 and every September thereafter, the Secretary shall adjust

the Interstate substitute cost estimate established in revised Table 4, Committee Print 99–171 of the Senate Committees on Environment and Public Works and on Banking, Housing, and Urban Affairs to reflect (1) changes in the amounts available to the Secretary under this paragraph, (2) changes in State estimates of the division of funds between substitute highway and transit projects, (3) approvals of substitute projects, and (4) the allocation and apportionment of substitute transit funds in prior fiscal years and shall use the Federal share of such adjusted estimate in making apportionments for substitute transit projects on October 1 or as soon as practicable thereafter for fiscal years subsequent to the fiscal year ending September 30, 1986.

(K) REDUCTION OF INTERSTATE APPORTIONMENT.—

(i) IN GENERAL.—Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress.

(ii) EXCEPTION.—In any State where the withdrawal of an Interstate route or portion thereof has been approved under this paragraph prior to the date of the enactment of the Federal-aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on such date of enactment shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in the State, as shown on such cost estimate; except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of such Federal-Aid Highway Act.

(L) APPLICABILITY OF UMTA.—

(i) SUPPLEMENTARY FUNDS.—Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

(ii) LABOR PROTECTION.—The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph.

(M) LIMITATION ON INTERSTATE DESIGNATIONS.—After the date of enactment of the Federal-Aid Highway Act of 1978, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provisions of law. The preceding sentence shall not apply to a designation made under section 139 of this title.

(N) OPEN TO TRAFFIC REQUIREMENT.—After September 30, 1979, the Secretary shall not withdraw his approval under this paragraph of any route or portion thereof on the Interstate System open to traffic before the date of the proposed withdrawal. Any withdrawal of approval of any such route or portion thereof before September 30, 1979, is hereby determined to be authorized by this paragraph.

(O) LIMITATION OF SUBSTITUTION FOR STATUTORILY DESIGNATED ROUTES.—Any route or segment which was statutorily designated after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.

(P) RIGHT-OF WAY PAYBACK.—Of sums made available to the Secretary under this paragraph for a State, an amount equal to the amount expended in Federal funds to purchase right-of-way for the withdrawn route or portion thereof in every case where right-of-way has not been disposed of by the State as of the date of enactment of this sentence shall not be available for release by the Secretary until the right-of-way disposition decision has been made in accordance with 103(e) (5)(B), (6)(B), or (e)(7) of this title. The amount apportioned to each eligible State pursuant to this paragraph shall be based on the full remaining value of the sums made available under this paragraph as determined by the Secretary but the total of such apportionments shall not exceed the remaining value of such sums less the amount unavailable for release by the Secretary. Sums retained by the Secretary shall be made available for apportionment upon partial or full repayment of funds in accordance with section 103(e)(7) of this title or upon determination by the Secretary that, under section 103(e) (5)(B) or (6)(B), repayment is not required.

* * * * * * *

(10)(A) Upon repayment by a State to the Treasurer of the United States of an amount as determined by the Secretary to be equal to the amount of Federal funds expended to acquire property for the Interstate system which was withdrawn from the Interstate system on or after September 1, 1985, in accordance with paragraph (4) of this section, such State shall be absolved of any further responsibility for repayment and will be deemed to have fully met all of the repayment requirements of paragraph (7) of this section.

(B) The amount repaid to the United States under this paragraph shall be deposited to the credit of the appropriation for the Highway Trust Fund. Such repayment shall be credited to the unprogrammed balance of funds apportioned to such State in accordance with section 104(d)(1)(C) of this title. The amount so credited shall be in addition to all other funds then apportioned to the State and shall be available for expenditure in accordance with the provisions of this title.

Sec. 104. Apportionment.

* * * * * * *

[(b) On October 1 of each fiscal year except as provided in paragraphs (4) and (5) of this subsection, the Secretary, after making the deduction authorized by subsection (a) of this section, shall apportion the remainder of the sums authorized to be appropriated for expenditure upon the Federal-aid systems for that fiscal year, among the several States in the following manner:

[(1) For the Federal-aid primary system (including extensions in urban areas and priority primary routes)—

[Two-thirds according to the following formula: one-third in the ratio which the area of each State bears to the total area of all the States, one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census, and one-third in the ratio which the mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in each State bear to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, as shown by a certificate of the Postmaster General, which he is directed to make and furnish annually to the Secretary; and one-third as follows: in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment.

[(2) For the Federal-aid secondary system:

[One-third in the ratio which the area of each State bears to the total area of all the States; one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census; and one-third in the ratio which the mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, certified as above provided, in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles in all the States. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment.

[(3) [Repealed P.L. 94-280.]

[(4) For the Interstate System, for the fiscal years ending June 30, 1957, June 30, 1958, and June 30, 1959:

[One-half in the ratio which the population of each State bears to the total population of all the States as shown by the latest available Federal census, except that no State shall receive less than three-fourths of 1 per centum of the funds so apportioned; and one-half in the manner provided in paragraph (1) of this subsection. The sums authorized by section 108(b) of the Federal-Aid Highway Act of 1956 for the fiscal years ending June 30, 1958, and June 30, 1959, shall be apportioned on a date not less than six months and not more than twelve months in advance of the beginning of the fiscal year for which authorized.

[(5)(A) Except as provided in subparagraph (B)—For the Interstate System for the fiscal years 1960 through 1990:

[For the fiscal years 1960 through 1966, in the ratio which the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of completing the Interstate System in all of the States. For the fiscal year 1967 through 1990, in the ratio which the Federal share of the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of the Federal share of completing the Interstate System in all of the States. Each apportionment herein authorized for the fiscal years 1960 through 1990, inclusive, shall be made on October 1 of the year preceding the fiscal year for which authorized.

[As soon as the standards provided for in subsection (b) of section 109 of this title have been adopted, the Secretary, in cooperation with the State highway departments, shall make a detailed estimate of the cost of completing the Interstate System as then designated, after taking into account all previous apportionments made under this section, based upon such standards and in accordance with rules and regulations adopted by him and applied uniformly to all of the States. The Secretary shall transmit such estimates to the Senate and the House of Representatives within ten days subsequent to January 2, 1958. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1960, June 30, 1961, and June 30, 1962. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1961. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1963, June 30, 1964, June 30, 1965, and June 30, 1966. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1965. Upon the approval of such estimate by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1968. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1970, and June 30, 1971. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives on April 20, 1970. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June

30, 1972, and June 30, 1973. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1972. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1975. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making the apportionment for the fiscal year ending September 30, 1977. The Secretary shall make the apportionment for the fiscal year ending September 30, 1978, in accordance with section 103 of the Federal-Aid Highway Act of 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1977. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1979, and September 30, 1980. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1979. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1981, and September 30, 1982. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1981. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending September 30, 1983, and September 30, 1984. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1983. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1985, and September 30, 1986. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1985. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1987, and September 30, 1988. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1987. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1989, and September 30, 1990. Whenever the Secretary, pursuant to this subsection, requests and receives estimates of cost from the State highway departments, he shall furnish copies of such estimates at the same time to the Senate and the House of Representatives. The Secretary shall not include in any estimate submitted under this provision after December 31, 1978, any cost of a project to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967. Notwithstanding any other provisions of this subparagraph, the Secretary in making the revised estimate of the cost of completing the then designated Interstate System for the purpose of transmitting it to the Senate and House of Representatives within ten days subsequent to January 2, 1983, or thereafter, shall include only those costs eligible for funds authorized by subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, including the amendments made by section 4 of the Federal-Aid Highway Act of 1981.

[(B) For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System:

> 55 per centum in the ratio that lane miles on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 45 per centum in the ratio that vehicle miles traveled on lanes on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such vehicle miles in all States. Notwithstanding the preceding sentence, no State excluding any State that has no interstate lane miles shall receive less than one-half of 1 per centum of the total apportionment made by this subparagraph for any fiscal year.

[(6) For the Federal-aid urban system:

[In the ratio which the population in urban areas, or parts thereof, in each State bears to the total population in such urban areas, or parts thereof, in all the States as shown by the latest available Federal census. No State receive less than one-half of 1 per centum of each year's apportionment.

[(f)]*(b)*(1) On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed one-half per centum of the remaining funds authorized to be appropriated for expenditure upon the Federal-aid systems, for the purpose of carring out the requirements of section 134 of this title [except that in the case of funds authorized for apportionment on the Interstate System, the Secretary shall set aside that portion of such funds (subject to the overall limitation of one-half of 1 per centum) on October 1 of the year next preceding the fiscal year for which such funds are authorized for such System].

(2) These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half per centum of the amount apportioned.

(3) The fund apportioned to any State under paragraph (2) of this subsection shall be made available by the State to the metropolitan planning organizations designated by the State as being responsible for carrying out the provisions of section 134 of this title, except that States receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas. These funds shall be matched in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

(4) The distribution within any State of the planning funds made available to agencies under paragraph (3) of this subsection shall be in accordance with a formula developed each State and approved by the Secretary which shall consider but not necessarily be limited to, population, status of planning, and metropolitan area transportation needs.

[(c)(1) Subject to subsection (d), the amount apportioned in any fiscal year, commencing with the apportionment of funds authorized to be appropriated under subsection (a) of section 102 of the Federal-Aid Highway Act of 1956 (70 Stat. 374), to each State in accordance with paragraph (1) or (2) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such a transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest.

[(2) Subject to subsection (d), the amount apportioned in any fiscal year to each State in accordance with paragraph (1) or (6) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest. Funds apportioned in accordance with paragraph (6) of subsection (b) of this section shall not be transferred from their allocation to any urbanized area of two hundred thousand population or more under section 150 of this title without the approval of the local officials of such urbanized area.

[(d) Each transfer of apportionments under subsection (c) of this section shall be subject to the following conditions:

[(1) In the case of transfers under paragraph (1), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

[(2) In the case of transfers under paragraph (2), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

[(3) No transfer shall be made from an apportionment during any fiscal year if during such fiscal year a transfer has been made to such apportionment.

[(4) No transfer shall be made to an apportionment during any fiscal year if during such fiscal year a transfer has been made from such apportionment.]

(c) On October 1 of each of the fiscal years, ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990, the Secretary, after making deductions authorized by subsections (a) and (b) of this section, shall deduct one-quarter per centum of the remaining funds authorized to be appropriated for that fiscal year for the Federal-aid Interstate-Primary program, the urban system, the secondary system, bridge replacement and rehabilitation, Interstate Substitution highway projects, projects for the elimination of hazards of railway-highway crossings, and for projects for the elimination of hazards under section 152 of this title for the purpose of carrying out the objectives of the Strategic Highway Research Project under section 133 of this title.

(d) On October 1 of each fiscal year the Secretary, after making the deductions authorized by subsections (a), (b), and (c) of this section, shall apportion the remainder of the sums authorized to be appropriated for expenditure upon the Federal-aid systems for that fiscal year; among the several States in the following manner:

(1) For the Federal-aid Interstate-primary program—

(A) For each of the fiscal years 1987, 1988, 1989, and 1990 that portion of $3,000,000,000 remaining after making the deductions authorized by subsections (a), (b), and (c) of this section shall be apportioned in the ratio which the estimated cost of completing the Interstate System in each State bears to the sum of the estimated cost of completing the Interstate System in all of the States as established in revised Table 5, Committee Print 99-170 of the Senate Committee on Environment and Public Works: Provided, That the Secretary shall on October 1, 1986, before making the approtionment required by this paragraph, adjust such Interstate Cost Estimate to reflect (i) all previous credits, apportionments of Interstate construction funds and lapses of previous apportionments of Interstate construction funds,

(ii) previous withdrawals of Interstate segments, (iii) previous allocations of Intestate discretionary funds, and (iv) transfers of Interstate construction funds and Provided, That for each of the fiscal years 1987, 1988, 1989, and 1990, no State, including the State of Alaska, shall receive less than one-half per centum of the total apportionment under this papagraph (A). Amounts made available under this proviso shall be eligible for expenditure in the same manner as other Interstate-Primary funds, for projects on the Urban and Secondary Systems, and for projects for the elimination of hazards under section 152 of this title.

(B) For each of the fiscal years 1987, 1988, 1989, and 1990 that portion of $2,800,000,000 remaining after making the deduction authorized by subsections (a), (b), and (c) of this section shall be apportioned as follows:

Fifty-five per centum in the ratio that land miles on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 129(e) of this title) in each State bears to the total of all such lane miles in all States; and 45 per centum in the ratio that vehicle miles traveled on lanes on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 129(e) of this title) in each State bears to the total of all such vehicle miles in all States. Notwithstanding the preceding sentence, no State excluding any State that has no Interstate lane miles shall receive less than one-half of 1 per centum of the total apportionment made by this subparagraph for any fiscal year.

(C) Before making the apportionment under this paragraph (c), the Secretary shall set aside such sums as are necessary to carry out the provisions of subparagraph (C)(iv). For each of the fiscal years 1987, 1988, 1989, and 1990 that portion of $2,350,000,000 remaining after such set aside and after the deductions authorized by subsections (a), (b), and (c) of this section shall be apportioned as follows:

(i) The Secretary shall determine for each State the higher of the amount which would be apportioned to such State under a formula where (I) two-thirds would be apportioned, one-third in the ratio which the area of each State bears to the total area of all the States, one-third in the ration which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census, and one third in the ratio which the mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles as shown by a certificate of the Postmaster General, which he is directed to make and furnish annually to the Secretary; and one-third in the ratio

which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census with no State (other than the District of Columbia) to receive less than one-half per centum of each year's apportionment and the amount which would be apportioned to such State under a formula where (II) each State would be apportioned one-half in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census and one-half in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

(ii) The Secretary shall total the amounts determined for each State under paragraph (i) and shall determine the ratio which the amounts apportioned under this paragraph (C) bears to such total.

(iii) The amount which shall be apportioned to each State under this paragraph (C) shall be the amount determined for such State under paragraph (i) multiplied by the ratio determined under paragraph (ii).

(iv) No State shall receive an apportionment under this paragraph (C) which is less than the lower of (I), the amount which the State would be apportioned under the formula in paragraph (i)(I), and (II), the amount which the State would be apportioned under the formula in paragraph (i)(II). No State shall receive less than one-half per centum of the total apportionment under this paragraph (C).

(2) For the Federal-aid secondary system:

One-third in the ratio which the area of each State bears to the total area of all the States; one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all of the States as shown by the latest available Federal census; and one-third in the ratio which the mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, certified as above provided, in each States bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles in all the States. No State (other than the District of Columbia) shall receive less than one-half of 1 percentum of each year's apportionment.

(3) For the Federal-aid urban system:

In the ratio which the population in urban areas, or parts thereof, in each State bears to the total population in such urban areas, or parts thereof, in all the States as shown by the latest available Federal census. No State shall receive less than one-half of 1 per centum of each year's apportionment.

[(e) On October 1 of each fiscal year the Secretary shall certify to each of the State highway departments the sums which he has apportioned hereunder (other than under subsection (b)(5) of this section) to each State for such fiscal year; and also the sums which he has deducted for administration and research pursuant to subsection (a) of this section. On October 1 of the year preceding the fiscal year for which authorized, the Secretary shall certify to each of the State highway departments the sums which he has apportioned under subsection (b)(5) of this section to each State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (a) of this section. To permit the States to develop adequate plans for the utilization of apportioned sums the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than ninety days before the beginning of the fiscal year for which the sums to be apportioned are authorized, except that in the case of the Interstate System the Secretary shall advise each State ninety days prior to the apportionment of such funds.]

(e) On October 1 of each fiscal year the Secretary shall certify to each of the State highway departments the sums apportioned hereunder to each State for such fiscal year, and also the sums which he has deducted pursuant to subsections (a), (b), and (c) of this section. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than ninety days before the beginning of the fiscal year for which the sums to be apportioned are authorized.

[(g) Not more than 40 per centum of the amount apportioned in any fiscal year to each State in accordance with sections 144, 152, and 153 of this title, or section 203(d) of the Highway Safety Act of 1973, may be transferred from the apportionment under one section to the apportionment under any other of such sections if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State highway department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State highway department that the purposes of the program from which such funds are to be transferred have been met. All or any part of the funds apportioned in any fiscal year to a State in accordance with section 203(d) of the Highway Safety Act of 1973 from funds authorized in section 203(c) of such Act, may be transferred from that apportionment to the apportionment made under section 219 of this title if such transfer is requested by the State highway department and is approved by the Secretary after he has received satisfactory assurances from such department that the purposes of such section 203 have been met. Nothing in this subsection authorizes the transfer of any amount apportioned from the Highway Trust Fund to any apportionment the funds for which were not from the Highway Trust Fund, and nothing in this subsection authorizes the transfer of any amount apportioned from funds not from the Highway Trust Fund to any apportionment the funds for which were from the Highway Trust Fund.]

(f) Not more than 40 per centum of the amount apportioned in any fiscal year to each State in accordance with sections 130, 144, and 152 of this title, may be transferred from the apportionment

under one section to the apportionment under any other of such sections if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State highway department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State highway department that the purposes of the program from which such funds are to be transferred have been met.

[(h) The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year.]

(g)(1) The amount apportioned in any fiscal year to each State in accordance with paragraph (2) and (3) of subsection (d) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest. Funds apportioned in accordance with paragraph (3) of subsection (d) of this section shall not be transferred from their allocation to any urbanized area of two hundred thousand population or more under section 150 of this title without the approval of the local officials of such urbanized area.

(2) In the case of transfers under paragraph (1), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of any apportionment for any fiscal year shall be transferred to other apportionments.

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Sec. 106. Plans, specifications, and estimates.

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(c) Items included in any such estimate for construction engineering shall not exceed [10] *15* per centum of the total estimated cost of a project financed with Federal-aid highway funds, after excluding from such total estimate cost, the estimated costs of rights-of-way, preliminary engineering and construction engineering. [However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.]

Sec. 107. Acquisition of rights-of-way—Interstate System.

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(b) The costs incurred by the Secretary in acquiring any such lands or interests in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition. All costs incurred by the Secretary in connection with the acquisition of any such lands or interests in lands shall be paid from the funds for construction, reconstruction, or improvement of the Interstate System apportioned to the State upon the request of which such lands or interests in lands are acquired, and any sums paid to the Secretary by such State as its share of the costs of acquisition of such lands or interests in lands shall be deposited in the Treasury to the credit of the appropriation for Federal-aid highways and shall be credited to the amount apportioned to such State as its apportionment of funds for construction, reconstruction, or improvement of the Interstate System, or shall be deducted from other moneys due to the State for reimbursement from funds authorized to be appropriated [under section 108(b) of the Federal-Aid Highway Act of 1956] *for Interstate construction or for the Interstate-primary program.*

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Sec. 112. Letting of contracts.

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(b) Construction of each project, subject to the provisions of subsection (a) of this section, shall be performed by contact awarded by competitive bidding, unless the State highway department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective *or that an emergency situation exists.* Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specification.

* * * * * * *

(f) LIMITATIONS CONCERNING SOUTH AFRICA AND AWARDS OF CONTRACTS.—A State or local governmental body that is a recipient of Federal funds under this title may prohibit or otherwise limit the award of contracts funded under this title by including in its contracts terms and conditions related to the contractor's business in South Africa in accordance with a State or local law if the State or local governmental body first enters into an agreement with the Secretary that any costs incurred as a result of such prohibition or limitation which are in excess of the costs that would otherwise have been incurred with respect to such project under this title will not, for purposes of this title, be considered to be a cost of such project: Provided, That this subsection shall be null and void when apartheid law and policy is ended in South Africa.

Sec. 113. Prevailing rate of wage.

(a) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on the construction work performed on highway projects on the Federal-aid systems, the primary and secondary, as well as their extensions in urban areas, and the Interstate System, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems, shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of [August 30, 1935] *March 3, 1931,* known as the Davis-Bacon Act (40 U.S.C. [267a] *276a*).

* * * * * * *

Sec. 115. Construction by States in advance of apportionment.

(a)(1) When a State has obligated all funds apportioned or allocated to it under section 103(e)(4). 104, or 144 of this title, other than [Interstate funds.] *Interstate-primary program funds,* and proceeds to construct any highway substitute, Federal-aid system, or bridge project, respectively, other than an Interstate project [funded under section 104(b)(5) of this title], without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 103(e)(4), 104, or 144, respectively, of this title if—

(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and

(B) the project conforms to the applicable standards adopted under section 109 of this title.

(2) The Secretary may not approve an application under this section unless an authorization for section 103(e)(4), 104, or 144 of this title, as the case may be, is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations.

* * * * * * *

[Sec. 118. Availability of sums apportioned.

[(a) On and after the date that the Secretary has certified to each State highway department the sums apportioned to each Federal-aid system or part thereof pursuant to an authorization under this title, or under prior Acts, such sums shall be available for expenditure under the provisions of this title.

[(b)(1) Sums apportioned to each Federal-aid system (other than the Interstate System) shall continue available for expenditure in that State for the appropriate Federal-aid system or part thereof (other than the Interstate System) for a period of three years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse

[(2) Except as otherwise provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in that State for the Interstate System until the end of the fiscal year for which authorized. Sums not obligated within the time period prescribed by the preceding sentence shall be made available by the Secretary for projects on the Interstate System (other than projects for which sums are apportioned under section 104(b)(5)(B)) in accordance with the following priorities: First, for high cost projects which directly contribute to the completion of an Interstate segment which is not open to traffic; and second, for projects of high cost in relation to a State's apportionment. Sums may only be made available under this paragraph in any State if the Secretary determines that the State has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (A) apply the funds to a ready-to-commence project; and (B) in the case of construction work, begin work within ninety days of obligation. Sums made available under this paragraph shall remain available until expended.

[(3) Any amount apportioned to the States for the Interstate System under subsection (b)(5)(B) of section 104 of this title shall continue to be available for expenditure in that State for a period of two years after the close of the fiscal year for which such sums are authorized. Sums not obligated within the time period prescribed by the preceding sentence shall be made available by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System to any other State applying for such funds, if the Secretary determines that the State has obligated all of its apportionments under such subsection other than an amount which, by itself, is insufficient to pay the Federal share of the cost of such a project which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (A) obligate the funds within one year of the date the funds are made available; (B) apply them to a ready-to-commence project; and (C) in the case of construction work, begin work within ninety days of obligation. Sums made available under this paragraph shall remain available until expended.

[(4) Sums apportioned to a Federal-aid system for any fiscal year shall be deemed to be expended if a sum equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is obligated. Any Federal-aid highway funds released by the payment of the final voucher or by the modification of the formal project agreement shall be credited to the same class of funds, primary, secondary, urban, or interstate, previously apportioned to the State and be immediately available for expenditure.

[(c) Before any apportionment is made under section 104(b)(5)(A) of this title for a fiscal year beginning after September 30, 1983, the Secretary shall set aside $300,000,000. Such amount shall be available only for obligation by the Secretary in accordance with subsection (b)(2) of this section.

[(d) In addition to amounts otherwise available to carry out this section, an amount equal to the amount by which the unobligated apportionment for the Interstate System in any State is reduced under section 103(e)(4) of this title on account of the withdrawal of a route or portion thereof on the Interstate System, which withdrawal is approved after the date of enactment of this subsection, shall be available to the Secretary for obligation in accordance with subsection (b)(2) of this section.

[(e) The total payments to any State shall not at any time during a current fiscal year exceed the total of all apportionments to such State in accordance with section 104 of this title for such fiscal year and all preceding fiscal years.

[(f) Funds made available to the State of Alaska under this title may be expended for construction of access and development roads on a Federal-aid system that will serve resource development, recreational, residential, commercial, industrial, or other like purposes.]

Sec. 118. Availability.

(a) On and after the date that the Secretary has certified to each State the sums apportioned or allocated pursuant to an authorization under this title such sums shall be available for obligation under the provisions of this title.

(b)(1) Sums apportioned for the Federal-aid Interstateprimary program, for the Federal-aid secondary system and for the Federal-aid urban system in a State shall continue available for obligation in that State for obligation in that State for the appropriate program and system for a period of three years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unobligated at the end of such period shall lapse.

(2)(A) Sums apportioned for bridge replacement and rehabilitation in a State shall remain available for obligation in that State for a period of three years after the close of the fisal year for which the sums are authorized and any amounts apportioned remaining unobligated at the end of the period shall be allocated by the Secretary pursuant to section 144(g)(2) of this title.

(B) Sums allocated for bridge replacement and rehabilitation in a State shall remain available for obligation in that State until the close of the fiscal year of allocation and any amount allocated remaining unobligated at the end of the period shall be reallocated by the Secretary pursuant to section 144(g)(2) of this title.

(3) Sums apportioned or allocated for a particular purpose for any fiscal year shall be deemed to be obligated if a sum equal to the total of the sums apportioned or allocated to the State for such purpose for such fiscal year and previous fiscal years is obligated. Any funds released by the payment of the final voucher or by the modification of the formal project agreement shall be credited to the same class of funds previously apportioned or allocated to the State and be immediately available for obligation.

(c) Funds made available to the State of Alaska under this title may be expended for construction of access and development roads

on a Federal-aid system that will serve resource development, recreational, residential, commercial, industrial, or other like purposes.

Sec. 119. Interstate System resurfacing.

(a) The Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System designated under sections 103 and 139(c) of this title and routes on the Interstate System designated before the date of enactment of this sentence under section 139 (a) and (b) of this title; except that the Secretary may only approve a project pursuant to ths subsection on a toll road if such road is subject to a Secretarial agreement provided for in [section 105 of the Federal-Aid Highway Act of 1978] *section 129(k) of this title.* [Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title.] The Federal share for any project under this subsection shall be that set forth in section 120(c) of this title.

(b) Not later than one year after the date of issuance of initial guidelines under section 109(m) of this title each State shall have a program for the Interstate System in accordance with such guidelines. Each State shall certify on January 1st of each year that it has such a program and the Interstate system is maintained in accordance with the program. If a State fails to certify as required or if the Secretary determines a State is not adequately maintaining the Interstate System in accordance with such program then the next apportionment of funds to such State [for the Interstate System shall] *shall* be reduced by amounts [equal to 10 per centum] *of not more than 10 per centum* of the amount which would otherwise be apportioned to such State under section [*104*] *104(d)(1)(A)* of this title. If, within one year from the date the apportionment of a State is reduced under this subsection, the Secretary determines that such State is maintaining the Interstate System in accordance with the guidelines the apportionment of such State shall be increased by an amount equal to the reduction. If the Secretary does not make such a determination within such one year period the amount so withheld shall be reapportioned to all other eligible States.

(c) Reconstructing as authorized in subsection (a) of this section may include, but is not limited to, the addition of travel lanes and the construction and reconstruction of interchanges and overcrossings along existing completed interstate routes, including the acquisition of right-of-way where necessary.

[(d) Upon application by a State and approval by the Secretary, the Secretary may authorize the transfer of so much of the amount apportioned to such State for any fiscal year under paragraph (5)(A) of subsection (b) of section 104 of this title, as does not exceed the Federal share of the cost of segments of the Interstate System open to traffic in such State (other than high occupancy vehicle lanes), in the most recent cost estimate, to the apportionment under paragraph (5)(B) of subsection (b) of section 104 of this title, except that not more than 50 per centum of the total apportionment under such paragraph (5)(A) for a fiscal year shall be transferred under this subsection for such fiscal year. The next cost estimate submitted to Congress under paragraph (5)(A) of subsection

(b) of such section 104 of the cost of completing segments of the Interstate System open to traffic in that Sate (other than high occupancy vehicle lanes) shall be reduced for such State in an amount equal to the amount transferred under this subsection.]

Sec. 120. Federal share payable.

(a) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project, [financed with primary] *financed with Interstate-primary,* secondary, or urban funds, on the Federal-aid primary system, *(other than the Interstate System)* the Federal-aid secondary system, and the Federal-aid urban system shall either (A) not exceed 75 per centum of the cost construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area, or (B) not exceed 75 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, except that the Federal share payable on any project in a State shall not exceed 95 per centum of the total cost of any such project. In any case where a State elects to have the Federal share provided in clause (B) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than one year, requiring such State to use solely for highway construction purposes (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State's share as provided in clause (B) and what its share would be if it elected to pay the share provided in clause (A) for all projects subject to such agreement.

[(b) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project, financed with interstate funds on the Interstate System, authorized to be appropriated prior to June 29, 1956, shall not exceed 60 per centum of the cost of construction, except that in the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area. The provisions of subsection (a) of this section shall apply to any project financed with funds authorized by the provisions of section 2 of the Federal-Aid Highway Act of 1952.]

(b) Notwithstanding other provisions of this title, a State may contribute an amount in excess of its normal share on a project under this title so as to decrease the Federal share payable on such

project: Provided, That the use of this provisions shall be subject to criteria established by the Secretary.

(c) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project on the Interstate System [provided for by funds made available under the provisions of section 108(b) of the Federal-Aid Highway Act of 1956 shall be increased to]*, as designated in section 103 of this title and as designated prior to March 9, 1984, in section 139 (a) and (b) of this title financed with Interstate-primary funds shall not exceed* 90 per centum of the total cost thereof, plus a percentage of the remaining 10 per centum of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 per centum of the total area of all lands therein, equal to the percentage that the area of such lands in such State is of its total area, except that such Federal share payable on any project in any State shall not exceed 95 per centum of the total cost of such project. Notwithstanding subsection (a) of this section, the Federal share payable on account of any project financed with primary funds on the Interstate System for resurfacing, restoring, rehabilitating, and reconstructing shall be the percentage provided in this subsection.

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(f) The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title [shall not exceed 100 per centum of the cost thereof: *Provided,*] *on account of any project on a Federal-aid highway system, including the Interstate System, shall not exceed the Federal share payable of a project on a system as provided in subsections (a) and (c) of this section: Provided, That the Federal share payable for eligible emergency repairs to minimize damage, protect facilities or restore essential traffic accomplished within thirty days after the actual occurrence may amount to 100 per centum of the costs thereof: And provided further* That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands, highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of other cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in section 144 of this title, "a comparable facility" shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life.

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(i) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.

[(i)] *(j)* The Federal share payable on account of any project financed under section *104(b) and* 307(c) of this title shall be 85 per centum, except that in the case of any State containing nontaxable

Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, except that such Federal share payable on any project in any State shall not exceed 95 per centum of the total cost of any such project.

[(j)] *(k)* Notwithstanding any other provision of this section (other than subsection (i)), of this title, or of any other law, in any case where a State elects to use funds apportioned to it for any Federal-aid system for any project under sections 143, 148, and 155, of this title and for those priority primary routes under section 147 of this title designated in Committee Print Numbered 97-61 of the Committee on Public Works and Transportation of the House of Representatives, and for funds allocated under the provisions of section 155 of this title and obligated subsequent to January 6, 1983, the Federal share payable on account of such project shall be 95 per centum of the cost thereof, unless—

(1) such project is on land owned by the United States in which case the Federal share shall be 100 per centum of the cost of such project, or

(2) a Federal share of the cost of the project greater than 95 per centum is specifically authorized by law.

[(k)] *(l)* Notwithstanding any other provision of this section, the Federal share payable on account of any project under this title to reconstruct, resurface, restore, and rehabilitate any highway which the Secretary determines, at the request of any State, is incurring a substantial use as a result of transportation activities to meet national energy requirements and will continue to incur such use is 85 per centum of the cost of such project.

Sec. 121. Payment to States for construction.

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(d) In making payment pursuant to this section, the Secretary shall be bound by the limitations with respect to the permissible amounts of such payments contained in sections 120 and 130 of this title. Payments for construction engineering on any project financed with Federal-aid highway funds shall not exceed [10] *15* per centum of the Federal share of the cost of construction of such project after excluding from the cost of construction the costs of rights-of-way, preliminary engineering, and construction engineering. [However, this limitation shall be 15 per centum in any State with respect to whom the Secretary finds such higher limitation to be necessary.]

(e) Such payments shall be made to such official or officials or depository as may be designated by the State highway department and authorized under the laws of the State to receive public funds of the State.

Sec. 122. Payment to States for bond retirement.

Any State that shall use the proceeds of bonds issued by the State, county, city, or other political subdivision of the State for the construction of one or more projects on the Federal-aid primary or Interstate System, or extensions of any of the Federal-aid highway systems in urban areas, or for substitue highway projects approved under section 103(e)(4) of this title, may claim payment of any portion of the sums apportioned to it for expenditure on such system or on highway projects approved under section 103(e)(4) of this title to aid in the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas *or for substitute highway projects* and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System at their maturities, to the extent that the proceeds of such bonds have been actually expended in the construction of one or more of such projects. Such claims for payment may be made only when all of the provisions of this title have been complied with to the same extent and with the same effect as though payment were to be made to the State under section 121 of this title, instead of this section, and the Federal share payable shall not exceed the pro rata basis of payment authorized in section 120 of this title. This section shall not be construed as a commitment or obligation on the part of the United States to provide for the payment of the principal or interest of any such bonds. The payment of interest on such bonds and incidental costs in connection with the sale of such bonds shall not be included in the estimated cost of completing the Interstate System.

Sec. 123. Relocation of utility facilities.

⟦(a) When a State shall pay for the cost of relocation of utility facilities necessitated by the construction of a project on the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas, Federal funds may be used to reimburse the State for such cost in the same proportion as Federal funds are expended on the project. Federal funds shall not be used to reimburse the State under this section when the payment to the utility violates the law of the State or violates a legal contract between the utility and the State. Such reimbursement shall be made only after evidence satisfactory to the Secretary shall have been presented to him substantiating the fact that the State has paid such cost from its own funds with respect to Federal-aid highway projects for which Federal funds are obligated subsequent to April 16, 1958, for work, including relocation of utility facilities.⟧

(a) When a State pays for the cost of relocation of utility facilities necessitated by the construction of a project on the Federal-aid primary system including the Interstate System, or under a Federal-aid program, or under the State's safety improvement program for the elimination of hazards to the traveling public resulting from the utility facilities on or near the right-of-way of highways on the Federal-aid primary system including the Interstate system, Federal funds may be used to reimburse the State or such cost in the same proportion as Federal funds are used on the project.

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Sec. 125. Emergency relief.

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(b) The Secretary may expend funds from the emergency fund herein authorized for the repair or construction of highways on [the Interstate System, the Primary System, and on any routes functionally classified as arterials on major collectors,] *the Federal-aid highway systems, including the Interstate System* in accordance with the provisions of this chapter: *Provided,*) That obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (c) of this section, resulting from a single natural disaster or a single catastrophic failure shall not exceed $30,000,000 *or $100,000,000, with respect to natural disasters and catastrophic failures occuring in Calendar year 1986,* in any State. Notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expanded from the emergency fund herein authorized on [the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors] *the Federal-aid highway system, including the Interstate System.* Except as to highways, roads, and trails mentioned in subsection (c) of this section, no funds shall be so expended unless the Secretary has received an application therefor from the State highway department, and unless an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared such emergency to be a major disaster for the purposes of the Disaster Relief Act of 1974 (Public Law 93-288) concurrence of the Secretary is not required.

(c) The Secretary may expend funds from the emergency fund herein authorized, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are [routes functionally classified as arterials or major collectors] *on any of the Federal-aid highway systems.*

(d) For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Island shall be considered to be States and part of the United States, and the chief executive officer of each territory shall be considered to be a Governor of a State. The Secretary may expend funds from the sums authorized for this section for the repair or reconstruction of highways eligible for assistance under section 215 of this title: Provided, That obligations for projects under this subsection shall not exceed $5,000,000 in any fiscal year.

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Sec. 127. Vehicle weight limitations—Interstate System.

(a) No funds [authorized to be appropriated for any fiscal year under provisions of the Federal-aid Highway Act of 1956 shall be apportioned**]** *shall be apportioned under section 104(d)(1)(A) of this title* to any State which does not permit the use of the National System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more. However, the maximum gross weight to be allowed by any State for vehicles using the National System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W=500\left(\frac{LN}{N-1}+12N+36\right)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided,* That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956 except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse**[.]** *if not released and obligated within the availability period specified in section 118(b)(1) of this title.* This section shall not be construed to deny apportionment to any State allowing the operation within such State or any vehicles or combinations thereof which the State determines could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974. With respect to State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this subsection.

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Sec. 129. Toll roads, bridges, tunnels, and ferries.

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(j)(1) Each operator of toll roads, toll tunnels, toll ferries, and toll bridges, other than an international toll facility or toll facility subject to an agreement under this section or section 105 of the Surface Transportation Assistance Act of 1978, on a Federal-aid system in a State shall biennially certify to the Governor of the State that such facilities are adequately maintained and that the operator of such toll facility has the ability to fund the replacement or repair of any such facilities that are not adequately maintained without using Federal-aid highway funds. Failure to certify shall preclude Federal funding out of the Highway Trust Fund of any facilities owned or operated by the operator of such toll facility.

(2) The Governor shall report biennially to the Secretary the toll facilities subject to paragraph (1) of this subsection, that have so certified and those which have not certified in accordance with paragraph (1) of this subsection. If funds from the Highway Trust Fund are used to repair or replace such toll facilities, the State's apportionments for the following fiscal year under section 104 of this title shall be reduced by the amount of Highway Trust Fund moneys expended: Provided, That such reduction shall not be made if the State has executed an agreement covering such toll facilities under this section or section 105 of the Surface Transportation Assistance Act of 1978.

(k) Sums apportioned to a State for the Federal-aid Interstate-Primary program or for Interstate System resurfacing may be obligated for projects for resurfacing, restoring, and rehabilitating lanes on a toll road which has been designated as a part of the Interstate System if an agreement satifactory to the Secretary of Transportation has been reached with the State highway department and any public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections. The agreement referred to in the preceding sentence shall contain a provision requiring that if, for any reason, a toll road subject to an agreement does not become free to the public upon collection of sufficient tolls, as specified in the preceding sentence, Federal funds used for projects on such toll road pursuant to this subsection shall be repaid to the Federal Treasury and a provision requiring that if such repayment does not equal or exceed Federal funds apportioned to a State by reason of including toll road mileage in an apportionment formula, the State's apportionment shall be reduced by the amount needed to make the repayment equal such apportionment.

Sec. 130. Railway-highway crossings.

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(d) Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railroad-highway crossings.

(e) At least half of the funds authorized for and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated for this section shall be available for obligation in the same manner as funds apportioned under section 104(d)(1) of title 23, United States Code.

(f) 25 percent of the funds authorized for this section shall be apportioned to the States in the same manner as sums apportioned under section 104(d)(2) of title 23, United States Code, 25 percent of such funds shall be apportioned to the States in the same manner as apportioned under section 104(d)(3) of title 23, United States Code, and 50 percent of such funds shall be apportioned to the States in the ratio that total rail-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project financed with funds authorized for this section shall be 90 percent of the cost thereof.

(g) Each State shall report to the Secretary of Transportation not later than December 30 of each year on the progress being made to implement the railroad-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The Secretary of Transportation shall submit a report to the Senate Environment and Public Works Committee and the House Public Works and Transportation Committee of the Congress not later than April 1 of each year, on the progress being made by the State in implementing projects to improve railroad-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (d) and include recommendations for future implementation of the railroad highway crossings program.

(h) Funds authorized for this section may be used to provide local government with funds to be used on a matching basis when State funds are available which may only be spent when local government produces matching funds for the improvement of railroad crossings.

Sec. 131. Control of outdoor advertising.

(a) The Congress hereby finds and declares that the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of outdoor advertising signs, displays, and devices which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, [shall be reduced] *may be reduced* by amounts [equal to 10] *up to 5* per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. [Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary.]

[(c)] *(c)(1)* Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to [(1)] *(A)* directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, [(2)] *(B)* signs, displays, and devices advertising the sale or lease of property upon which they are located, [(3)] *(C)* signs, displays, and devices, including those which may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located, [(4)] *(D)* signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance the preservation of which would be consistent with the purposes of this section, and [(5)] *(E)* signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term "free coffee" shall include coffee for which a donation may be made, but is not required.

(2) As part of effective control, each State shall maintain an annual inventory of all outdoor advertising signs, displays, and devices required to be controlled pursuant to this section. Such inventory shall identify all such signs as either illegal, nonconforming, or conforming under State law. An inventory shall not be required in States which the Secretary determines have a permit and enforcement system which requires a permit for all lawful signs required to be controlled by this section and identifies promptly all unlawful signs.

(3) As part of effective control, each State shall assure that signs, displays and devices required to be removed by this section shall be removed within ninety days of (A) the date upon which they become unlawful or if not unlawful, the date upon which they must be removed pursuant to State law, or (B), if eligible to receive compensation pursuant to this section or to be amortized, the date upon which cash compensation is paid or the State amortization period ends.

(4) As part of effective control, no State may allow or undertake any vegetation removal or other alteration of the highway right-of-way with the purpose of improving the visibility of any outdoor advertising sign, display or device located outside of the right-of-way.

(5) As part of effective control, no State may permit any person to modify any outdoor advertising sign, display, or device which does not conform to subsections (c) or (d) of this section to improve its visibility or its useful life.

(6) As part of effective control, signs, displays and devices carrying advertising which is required to include a warning label in other advertising media, pursuant to a federal law or regulation, shall be required to display such warning label so that it is plainly legible from the main traveled way of the highway.

[(d)**]** *(d)(1)* In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting, and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary. The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act. Whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. Nothing in this subsection shall apply to signs, displays, and devices referred to in clauses (2) and (3) of subsection (c) of this section.

(2) After July 1, 1986, no new signs, displays or devices may be erected under the authority of this subsection. Any sign, display, or device lawfully erected under State law after July 1, 1986, and prior to the effective date of this section shall be treated as nonconforming.

[(c) Any sign, display, or device lawfully in existence along the Interstate System or the Federal-aid primary system on September 1, 1965, which does not conform to this section shall not be required to be removed until July 1, 1970. Any other sign, display, or device lawfully erected which does not conform to this section shall not be required to be removed until the end of the fifth year after it becomes nonconforming.]

(e) The Secretary shall not require a State to remove any lawfully erected sign, display, or device which does not conform to this section and is lawfully in existence on the date which this section becomes effective pursuant to section 117(b) of the Federal-Aid Highway Act of 1986. Nothing in this subsection shall prevent a State from removing any sign, display, or device.

(f) The Secretary shall, in consultation with the States, provide within the rights-of-way for areas at appropriate distances from interchanges on the Interstate System, on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. Such signs shall conform to national standards to be promulgated by the Secretary.

[(g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State Law and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section. The Federal share of such compensation shall be 75 per centum. Such compensation shall be paid for the following:

[(A) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and

[(B) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.]

(g)(1) The Secretary may participate in the costs incurred by a State for the following:

(A) physically removing signs, displays, or devices that are located in areas required to be effectively controlled by this section and are illegal under State law or that are required by this section to be removed and that were lawfully erected and have been lawfully maintained under State law; or

(B) acquiring signs, displays, or devices that are required by this section to be removed and that were lawfully erected and have been lawfully maintained under State law.

(2) Payments made to a State by the Secretary may be made for the removal or acquisition of signs, displays, and devices located in areas adjacent to the Federal-aid primary system and the Interstate System from funds apportioned to such State under section 104(d)(1)

of this title. For the removal or acquisition of signs, displays, or devices, the Federal share of any costs participated in under this subsection shall not exceed that set forth in section 120(a) for those adjacent to the Federal-aid primary system and that set forth in section 120(c) for those adjacent to the Interstate System.

(3) A sign, display, or device acquired with funds made available pursuant to this section may be disposed of by sale or other means to a private party only if the State receives satisfactory written assurances that the material will not be used to construct or reconstruct an outdoor advertising sign, display, or device.

[(h)] *(h)(1)* All public lands or reservations of the United States which are adjacent to any portion of the Interstate System and the primary system shall be controlled in accordance with the provisions of this section and the national standards promulgated by the Secretary.

(2) No outdoor advertising sign, display, or device shall be permitted by any Federal agency on all public lands or reservations owned or controlled by the United States, unless such sign, display, or device conforms to regulations issued by the Federal agency with jurisdiction over, or responsibility for, such land. Such regulations shall be at least as stringent as the requirements of this section and the requirements of the State in which the land is located. The regulations required by this subsection shall be developed in consultation with the Secretary of Transportation and shall be promulgated within 12 months of the effective date of this Act.

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(k) [Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing] *Nothing* in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section.

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[(n) No sign, display or device shall be required to be removed under this section if the Federal share of the just compensation to be paid upon removal of such sign, display, or device is not available to make such payment.]

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[(p) In the case of any sign, display, or device required to be removed under this section prior to the date of enactment of the Federal-Aid Highway Act of 1974, which sign, display, or device was after its removal lawfully relocated and which as a result of the amendments made to this section by such Act is required to be removed, the United States shall pay 100 per centum of the just compensation for such removal (including all relocation costs).]

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[Sec. 133. Repealed.] ***Sec. 133. Strategic highway research program.***

(a) The sums provided by section 104(c) of this title shall be available for obligation when deducted to implement the Strategic High-

way Research Program (SHRP). The Secretary is authorized to carry out the SHRP in cooperation with the State highway departments, as represented by the American Association of State Highway and Transportation Officials (AASHTO). The Secretary shall set standards to use the funds under this paragraph to conduct research, development and technology transfer activities determined to be strategically important to the national highway transportation system. The Secretary may provide grants to, and enter into cooperative agreements with, AASHTO and/or the National Academy of Science to conduct appropriate portions of the SHRP. Advance payments may be made as necessary to facilitate this program. No State matching share is required for the sums made available under this section. The sums provided by this section shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned for the Federal-aid Interstate primary program.

(b) The Secretary shall transmit a report annually beginning on January 1, 1988, to the Senate Environment and Public Works Committee and the House Public Works and Transportation Committee of the Congress which provides information on the progress and research findings of the Strategic Highway Research Program.

(c)(1) The remedy against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, for injury, loss of property, personal injury, or death shall apply to any civil action against the National Academy of Sciences for injury, loss of property, personal injury, or death for any act or omission arising from activities conducted under or in connection with the Strategic Highway Research Program authorized under subsection (a) of this section.

(2) The remedies referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining liability arising from any such act or omission without regard to when the act or omission occurred. Employees of the National Academy of Sciences and other individuals appointed by the President of the National Academy of Sciences and acting on its behalf in connection with the Strategic Highway Research Program shall be considered to be employees of the Federal Government, as provided in section 2671 of title 28, United States Code, for the purposes of such civil action or proceeding; and the civil action or proceeding shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of such title and shall be subject to the limitations and exceptions applicable to those actions.

(3) Upon certification by the Attorney General that a suit is within the provisions of subsection (a), a civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceeding shall be deemed a tort action brought against the United States under the provisions of section 1346(b), 2401(b), or 2402, or sections 2671 through 2680 of title 28, United States Code. For purposes of removal, the certifica-

tion of the Attorney General under this subsection shall be conclusive.

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Sec. 137. Fringe and corridor parking facilities.

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(f)(1) The Secretary may approve for Federal financial assistance from funds apportioned under section [104(b)(5)(B)] *104(d)(1)* of this title, projects for designating existing facilities, or for acquisition of rights of way or construction of new facilities, for use as preferential parking for carpools, provided that such facilities (A) are located outside of a central business district and within an interstate highway corridor, and (B) have as their primary purpose the reduction of vehicular traffic on the interstate highway.

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Sec. 139. Additions to Interstate System.

(a) Whenever the Secretary determines that a highway on the Federal-aid primary system meets all of the standards of a highway on the Interstate System and that such highway is a logical addition or connection to the Interstate System, he may, upon the affirmative recommendation of the State or States involved, designate such highway as a part of the Interstate System. The mileage of any highway designated as part of the Interstate System under this section shall not be charged against the limitation established by the first sentence of section 103(e) of this title. The designation of a highway as part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway; except that any State may use funds available to it under [sections 104(b)(1) and 104(b)(5)(B)] *section 104(d)(1)* of this title for the resurfacing, restoring, rehabilitating, and reconstruction of any highway designated as a route on the Interstate System under this subsection before the date of enactment of this sentence.

(b) Whenever the Secretary determines that a highway on the Federal-aid primary system would be a logical addition or connection to the Interstate System and would qualify for designation as a route on that system in the same manner as set forth in paragraph 1 of subsection (e) of section 103 of this title, he may upon the affirmative recommendation of the State or States involved designate such highway as a future part of the Interstate System. Such designation shall be made only upon the written agreement of the State or States involved that such highway will be constructed to meet all the standards of a highway on the Interstate System within twelve years of the date of the agreement between the Secretary and the State or States involved. The mileage of any highway designated as a future part of the Interstate System under this subsection shall not be charged against the limitations established by the first sentence of section 103(e) of this title. The designation of a highway as part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway; except that any State may use funds available to it under [sections 104(b)(1) and 104(b)(5)(B)] *section 104(d)(1)* of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any highway designated as a route on the Interstate System under this subsection before the date of enactment of this sentence. In the event that the State or States involved have not substantially completed the construction of any highway designated under this subsection within the time provided for in the agreement between the Secretary and the State or States involved, the Secretary shall remove the designation of such highway as a future part of the Interstate System. Removal of such designation as result of failure to comply with the agreement provided for in this subsection shall in no way prohibit the Secretary from designating such route as part of the Interstate System pursuant to subsection (a) of this section or under any other provision of law providing for addition to the Interstate System. No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision thereof, shall refer to any highway under this section, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as such highway is constructed to the geometric and construction standards for the Interstate System and has been designated as part of the Interstate System.

(c) The Secretary shall designate those portions of highway segments on the Federal-aid primary system in States which have no Interstate System that are logical components to a system serving the State's principal cities, national defense needs and military installations, and traffic generated by rail, water, and air transportation modes. The designated segments shall have been constructed to the geometric and construction standards adequate for current and probable future traffic demands and the needs of the locality of the segment. The mileage of any highway designated as part of the Interstate System under this subsection shall not be charged against the limitation established by the first sentence of section 103(e)(1) of this title. The designation of a highway under this subsection shall create no Federal financial responsibility with respect to such highway, except that the State involved may use Federal-aid highway funds available to it under [sections 104(b)(1) and 104(b)(5)(B)] *section 104(d)(1)* of this title, for the resurfacing, rehabilitation, restoration, and reconstruction of a highway designated as a route on the Interstate System under this subsection.

Sec. 140. Nondiscrimination.

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(d) Consistent with section 703(i) of the Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241, July 2, 1964, nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on projects and contracts on Indian reservation roads. The Secretary shall cooperate with Indian tribal governments and the States to implement this subsection.

Sec. 141. Enforcement of requirements.

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(d) The Secretary shall reduce the State's apportionment of Federal-aid highway funds under section [104(b)(5)] *104(d)(1)* of this title in an amount up to 25 per centum of the amount to be apportioned in any fiscal year beginning after September 30, 1984, during which heavy vehicles, subject to the use tax imposed by section 4481 of the Internal Revenue Code of 1954, may be lawfully registered in the State without having presented proof of payment, in such form as may be prescribed by the Secretary of the Treasury, of the use tax imposed by section 4481 of such Code. Amounts withheld from apportionment to a State under this subsection shall be apportioned to the other States pursuant to the formulas of section [104(b)(5)] *104(d)(1)* of this title and shall be available in the same manner and to the same extent as other Interstate-*primary* funds apportioned at the same time to other States.

Sec. 142. Public transportation.

(a)(1) To encourage the development, improvement, and use of public mass transportation systems operating motor vehicles (other than on rail) on Federal-aid highways for the transportation of passengers (hereafter in this section referred to as "buses"), so as to increase the traffic capacity of the Federal-aid systems for the movement of persons, the Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential high occupancy vehicle lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities to serve high occupancy vehicle and public mass transportation passengers, and sums apportioned under section [104(b)] *104(d)* of this title shall be available to finance the cost of projects under this paragraph. If fees are charged for use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility and the cost of providing shuttle service to and from the facility (including compensation to any person for operating the facility and for providing such shuttle service).

(2) In addition to the projects under paragraph (1), the Secretary may, beginning with the fiscal year ending June 30, 1975, approve as a project on the Federal-aid urban system, for payment from sums apportioned under section [104(b)(6)] *104(d)(3)* of this title, the purchase of buses, and, beginning with the fiscal year ending June 30, 1976, approve as a project on the Federal-aid urban system, for payment from sums apportioned under section [104(b)(6)] *104(d)(3)* of this title, the purchase of buses, and, beginning with the federal year ending June 30, 1976, approve as a project on the Federal-aid urban system, for payment from sums apportioned under section [104(b)(6)] *104(d)(3)* of this title, the construction, reconstruction, and improvement of fixed fail facilities, including the purchase of rolling stock for fixed rail, except that not more than $200,000,000 of all sums apportioned for the fiscal year ending June 30, 1975, under section [104(b)(6)] *104(d)(3)* shall be available for the payment of the Federal share of projects for the purchase of buses.

(b) Sums apportioned in accordance with [paragraph (5) of subsection (b) of section 104] *section 104(d)(1)* of this title shall be available to finance the Federal share of projects for exclusive or preferential high occupancy vehicle, truck, and emergency vehicle routes or lanes. Routes constructed under this subsection shall not be subject to the thrid sentence of section 109(b) of this title.

(c) Whenever responsible local officials of an urbanized area notify the State highway department that, in lieu of a highway project the Federal share of whcih is to be paid from funds apportioned under section [104(b)(6)] *104(d)(3)* of this title for the fiscal years ending June 30, 1974, and June 30, 1975, their needs require a nonhighway public mass transit project involving the construction of fixed rail facilities, or the purchase of passenger equipment, including rolling stock for any mode of mass transit, or both, and the State highway department determines that such public mass transit project is in accordance with the planning process under section 134 of this title and is entitled to priority under such planning process, such public mass transit project shall be submitted for approval to the Secretary. Approval of the plans, specifications, and estimates for such project by the Secretary shall be deemed a contractual obligation of the United States for payment out of the general funds of its proportional share of the cost of such project in an amount equal to the Federal share which would have been paid if such project were a highway project under section 120(a) of this title. Funds previously apportioned to such State under section [104(b)(6)] *104(d)(3)* of this title shall be reduced by an amount equal to such Federal share.

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Sec. 144. Highway bridge replacement and rehabilitation program.

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(i) The Secretary shall report annually on project approved under this section, shall annually revise and report the current inventories authorized by subsections (b) and (c) of this section, and shall report such recomendations as he may have for improvement of the program authorized by this section *to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation.*

* * * * * * *

(n) Notwithstanding any other provision of law, with respect to any project on a Federal-aid highway system for the replacement of a bridge or rehabilitation of a bridge which is wholly funded from State and local sources, is eligible for Federal funds under section 144 of title 23, United States Code, is noncontroversial, is certified by the state to have been carried out in accordance with all standards applicable to such projects under such section 144, and is determined by the Secretary upon completion to be no longer a deficient bridge, any amount expended after the effective date of this section, from such State and local sources for such project in excess of 20 per centum of the cost of construction thereof may be credited to the non-Federal share of the cost of the projects in such State which are eligible for Federal funds under section 144, in accordance with procedures established by the Secretary.

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Sec. 146. Carpool and vanpool projects.

(a) In order to conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary may approve for Federal financial assistance from funds apportioned under sections [104(b)(1), 104(b)(2), and 104(b)(6)] *104(d) (1), (2), and (3)* of this title, projects designed to encourage the use of carpools and vanpools. (As used hereafter in this section, the term "carpool" includes a vanpool.) Such a project may include, but is not limited to, such measures as providing carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use as preferential parking for carpools.

(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of this title, except those provisions which the Secretary determines are inconsistent with this section.

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Sec. 148. [Development of a national scenic and recreational highway.] *Repealed.*

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Sec. 150. Allocation of urban system funds.

The funds apportioned to any State under paragraph [(6) of subsection (b)] *(3) of subsection (d)* of section 104 of this title that are attributable to urbanized areas of 200,000 population or more shall be made available for expenditure in such urbanized areas for projects in programs approved under subsection (d) of section 105 of this title in accordance with a fair and equitable formula developed by the State which formula has been approved by the Secretary. Such formula shall provide for fair and equitable treatment of incorporated municipalities of 200,000 or more population. Whenever such a formula has not been developed and approved for a State, the funds apportioned to any State under paragraph [(6) of subsection (b)] *(3) of subsection (d)* of section 104 of this title which are attributable to urbanized areas having a population of 200,000 or more shall be allocated among such urbanized areas within such State for projects in programs approved under subsection (d) of section 105 of this title in the ratio that the populatin within each such urbanized area bears to the population of all such urbanized areas, or parts thereof, within such State. In the expenditure of funds allocated under the preceding sentence, fair and equitable treatment shall be accorded incorporated municipalities of 200,000 or more population. Funds allocated to an urbanized area under the provisions of this section may, at the request of the Governor and upon approval of the appropriate local officials of the area and the Secretary, be transferred to the allocation of another such area in the State or to the State for use in any urban area.

Sec. 151. [Pavement marking demonstration program.] ***Repealed.***

Sec. 152. Hazard elimination program.

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(e) Funds authorized to be appropriated to carry out this section shall be apportioned to the States as provided in section 402(c) of this title. Such funds shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section [104(b)(1)] *104(d)(1),* except that the Secretary is authorized to waive provisions he deems inconsistent with the purposes of this section.

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(g) Each State shall report to the Secretary of Transportation not later than December 30 of each year, on the progress being made to implement highway safety improvement projects for hazard elimination and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transportation shall submit a report to [the Congress] *the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation* not later than April 1 of each year on the progress being made by the States in implementing the hazard elimination program (including but not limited to any projects for pavement marking). The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, means and methods used, and the previous and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a) and include recommendations for future implementation of the hazard elimination program.

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Sec. 154. National maximum speed limit.

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(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted *on January 1, 1983,* at fifty-five miles per hour *and on highways built after such date with speed limits posted as fifty-five miles per hour,* in accordance with criteria to be established by the Secretary, including [criteria which takes] *criteria which take* into account the variability of speedometer readings and criteria based upon the speeds of all vehicles or a representative sample of all vehicles.

(f) If the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding

55 miles per hour is greater than 50 percent, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under [each of section 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 percent of the amount to be apportioned for the following fiscal year, in the case of of fiscal years 1982 and 1983, and up to 10 percent, in the case of subsequent fiscal years.] *section 104(d) (1)(c), (2), and (3) of this title in an amount of up to 10 percent of the amount to be apportioned for the following fiscal year.*

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Sec. 155. [Access highways to public recreation areas on certain lakes.] *Repealed.*

Sec. 156. [Highways crossing Federal projects.] *Repealed.*

* * * * * * *

Sec. 157. Minimum allocation.

[(a) In the fiscal year ending September 30, 1983, as soon as practicable after the date of enactment of this Act, and in each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, on October 1, the Secretary of Transportation shall allocate among the States, as defined in section 101 of this title amounts sufficient to insure that a State's percentage of the total apportionments in each such fiscal year of Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination and rail-highway crossings funds under sections 103(e)(4), 104(b), 144, and 152 of this title and section 203 of the Highway Safety Act of 1973, as amended, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the lastest fiscal year for which data is available.]

(a) Beginning with fiscal year 1987, as soon as practicable after the date of enactment of the Federal-Aid Act of 1986 and in each of the fiscal years thereafter, on October 1, or as soon as practicable thereafter, the Secretary of Transportation shall allocate among the States, as defined in section 101 of this title, amounts sufficient to insure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year of authorized Federal-aid highway programs and Federal-aid highway programs, except allocations for forest highways, Indian reservation roads, and parkways and park roads in accordance with section 202 of this title, highway related safety grants authorized by section 402 of this title, nonconstruction safety grants authorized by sections 402, 408, and 406 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 404 of the Surface Transportation Assistance Act of 1982, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data is available.

* * * * * * *

(c) In order to carry out this section there is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, such sums as may be necessary for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, [and] September 30, 1986[.]*, September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.*

Sec. 158. National minimum drinking age.

(a) Withholding of Funds for Noncompliance.—

(1) First Year.—The Secretary shall withhold 5 per centum of the amount required to be apportioned to any State under [each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6), of this title on the first day of the fiscal year succeeding the first fiscal year beginning after September 30, 1985] *sections 104(d) (1), (2), and (3) of this title on October 1, 1986* in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

(2) After the first year.—The Secretary shall withhold 10 per centum of the amount required to be apportioned to any State under [each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title on the first day of each fiscal year after the second fiscal year beginning after September 30, 1985,] *sections 104(d) (1), (2), and (3) of this title on October 1, 1987,* in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

(3) State grandfather law as complying.—If, before the later of (A) October 1, 1986, or (B) the tenth day following the last day of the first session the legislature of a State convenes after the date of the enactment of this paragraph, such State has in effect a law which makes unlawful the purchase and public possession in such State of any alcoholic beverage by a person who is less than 21 years of age (other than any person who is 18 years of age or older on the day preceding the effective date of such law and at such time could lawfully purchase or publicly possess any alcoholic beverage in such State), such State shall be deemed to be in compliance with paragraphs (1) and (2) of this subsection in each fiscal year in which such law is in effect.

(b) Period of Availability; Effect of Compliance and Noncompliance.—

(1) Period of availability of withheld funds.—

(A) Funds withheld on or before September 30, 1988.—Any funds withheld under this section from apportionment to any State on or before September 30, 1988, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under section 104(b)(5)(A) of this title but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

(ii) If such funds would have been apportioned under section 104(b)(5)(B) of this title but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(iii) If such funds would have been apportioned under section 104(b)(1), 104(b)(2), or 104(b)(6) of this title but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 1988.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to such State.

(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under this section from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State makes effective a law which is in compliance with subsection (a), the Secretary shall on the day following the effective date of such law apportion to such State the withheld funds remaining available for apportionment to such State.

(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

(A) Funds apportioned under section 104(b)(5)(A) of this title shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so approportioned.

(B) Funds apportioned under section 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) of this title shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5) of this title, shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.

(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under this section from apportionment are available for apportionment to a State under paragraph (1), the State has not made effective a law which is in compliance with subsection (a), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5) of this title, such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.".

(c) *ALCOHOLIC BEVERAGE DEFINED.*—As used in this section, the term "alcoholic beverage" means—

(1) beer as defined in section 5052(a) of the Internal Revenue Code of 1954,

(2) wine of not less than one-half of 1 per centum of alcohol by volume, or

(3) distilled spirits as defined in section 5002(a)(8) of such Code.

Sec. 159. Federal-aid Interstate-primary program.

(a) It is the national policy to bring all elements of the primary system up to standards established pursuant to section 109 of this title. To accomplish this policy the Federal-aid Interstate-primary program shall consist of projects for the construction, reconstruction, rehabilitation, restoration, and resurfacing or improvement of the primary system as designated in section 103(a) of this title and the Interstate System as designated in section 103(c)(1) and section 139 of this title.

*(b) In approving projects under this section, the Secretary shall give * * * consideration to projects to complete essential gaps on the Interstate System and for the reconstruction, rehabilitation, restoration, and resurfacing of existing highway facilities. Reconstruction may include, but is not limited to, the additional of travel lanes and the construction and reconstruction of interchanges and over-crossings along existing completed Interstate routes, including the acquisition of right-of-way where necessary.*

Sec. 160. Income from rights-of-way.

Net income that a State receives from the use, lease, or sale of right-of-way airspace acquired as a result of a project under this title shall be used by the State for projects eligible under this chapter.

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Sec. 204. Federal Lands Highways Program.

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(b) Funds available for forest highways and public lands highways shall be used by the Secretary to pay for the cost of construction and improvement thereof Funds available for park roads, parkways, and Indian reservation roads shall be used by *the Secretary or* the Secretary of the Interior to pay for the cost of construction and improvement thereof. In connection therewith, the Secretary and the Secretary of the Interior, as appropriate, may enter into construction contracts and such other contracts with a State or civil subdivision thereof or Indian tribe as deemed advisable. In the case of Indian reservation roads, Indian labor may be employed in such construction and improvement under such rules and regulations as may be prescribed by the Secretary of the Interior. No ceiling on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

* * * * * * *

(e) Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the Interior shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Notwithstanding the foregoing, the provisions of section 23 of the "Buy Indian" Act of June 25, 1910 (36 Stat. 891), and the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act of 1975 [(88 Stat. 2205)] (*88 Stat. 2203*) shall apply to all funds administered by the Secretary of the Interior which are appropriated for the construction and improvement of Indian reservation roads.

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Sec. 210. Defense access roads.

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(g) If the Secretary shall determine that it is necessary for the expeditious completion of any defense access road project he may advance to any State out of funds appropriated for defense access roads transferred and available to the Department of [Commerce] *Transportation the Federal* share of the cost of construction thereof to enable the State highway department to make prompt payments for acquisition of rights-of-way, and for the construction as it progresses. The sums so advanced shall be deposited in a special fund by the State official authorized by State law to receive such funds, to be disbursed solely upon vouchers approved by the State highway department for rights-of-way which have been or are being acquired and for construction which has been actually performed under this section. Upon determination by the Secretary that funds advanced to any State under the provisions of this subsection are no longer required, the amount of the advance which is determined to be in excess of requirements for the project shall be repaid upon his demand, and such repayments shall be returned to the credit of the appropriation from which the funds were advanced.

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Sec. 213. [Rama Road.] ***Repealed.***

* * * * * * *

Sec. 215. Territorial highway program.

(a) Recognizing the mutual benefits that will accrue to the Virgin Islands, Guam, [and American Samoa,] *American Samoa, and the Commonwealth of the Northern Mariana Islands* and to the United States from the improvement of highways in such territories of the United States, the Secretary is authorized to assist each such territorial government in a program for the construction and improvement of a system of arterial highways, and necessary inter-island connectors designated by the Governor of such territory and approved by the Secretary. Federal financial assistance shall be granted under this subsection to such territories upon the basis of a Federal contribution of *100* per centum of the cost of any project.

* * * * * * *

[(f) The provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section.]

(f) The provisions of chapter 1 of this title that are applicable to Federal-aid Interstate-primary program funds and to projects on the Federal-aid primary system other than the Interstate System shall apply to funds authorized to be appropriated to carry out this section, to funds obligated under this section and to projects carried out under this section except as determined by the Secretary to be inconsistent with this section. There shall be designated in each territory, a territorial Federal-aid highway system which will include all highways eligible for funding under this section. The system shall be designated by the highway department of the territory and be subject to the approval of the Secretary. Funding provided under this section shall only be available for highway construction projects on the territorial Federal-aid system.

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Sec. 217. Bicycle transportation and pedestrian walkway.

(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as Federal-aid highway projects, construct pedestrian walkways. Sums apportioned in accordance with [paragraphs (1), (2), and (6) of section 104(b)] *sections 104(d) (1), (2), and (3)* of this title shall be available for pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

(b)(1) To encourage energy conservation, including the development, improvement, and use of bicycle transportation, the States may, as Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycles, and carry out nonconstruction projects related to safe bicycle use. Sums apportioned in accordance with [paragraphs (1), (2), and (6) of section 104(b)] *sections 104(d) (1), (2), and (3)* of this title *and sums apportioned or allocated for highway substitute projects in accordance with sections 103(e)(4) of this title* shall be available for bicycle projects authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

(2) In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway, other than a highway access to which is fully controlled, on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

(3) No bicycle project shall be authorized by this section unless the Secretary shall have determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

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Sec. 219. [Safer off-system roads.] ***Repealed.***

Chapter 3.—GENERAL PROVISIONS

Sec. 301. Freedom from tolls.

Except as provided in section 129 of this title with respect to certain toll bridges and toll tunnels, all highways constructed under the provisions of this title shall be free from tolls of all kinds.

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Sec. 307. Research and planning.

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(c)(1) Not to exceed 1½ per centum of the sums apportioned for each fiscal year beginning with fiscal year 1974 to any State under section 104, of this title *and for highway projects, section 103(e)(4)* shall be available for expenditure upon request of the State highway department, with the approval of the Secretary, with or without State funds, for engineering and economic surveys and investigations; for the planning of future highway programs and local public transportation systems and for planning for the financing thereof; for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and for research and development, necessary in connection with the planning design, construction, and maintenance of highways and highway systems and for study, research and training on engineering standards and construction materials, including evaluation and accreditation of inspection and testing, and the regulation and taxation of their use.

(2) One and one-half per centum of the sums apportioned for each fiscal year beginning with the fical year 1983 to any State under sections 104 and 144 of this title shall be available for expenditure by the State highway department only for the purposes enumerated in paragraph (1) of this subsection.

(3) In addition to the percentage provided in paragraph (2) of this subsection, not to exceed one-half of one per centum of sums apportioned for each fiscal year beginning with the fiscal year 1964 under paragraphs **[**(1), (2), and (3) of section 104(b)**]** *(1) and (2) of 104(d)* of this title shall be available for expenditure upon request of the State highway department for the purposes enumerated in paragraph (1) of this subsection, including demonstration projects in connection with such purposes.

(4) Sums made available under paragraphs (2) and (3) of this subsection shall be matched by the State in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

(5) The sums provided pursuant to paragraph (2) of this subsection shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned under section **[**104(b)(1)**]** *104(d)(1)* of this title.

* * * * * * *

(e) The Secretary shall report to [the Congress] *the Senate Environment and Public Works Committee and the House Committee on Public Works and Transportation* in January 1983, and in January of every second year thereafter, estimates of the future highway needs of the Nation.

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Sec. 311. Highway improvements strategically important to the national defense.

Funds made available under subsection (a) of section 104 of this title may be used to pay the entire engineering costs of the surveys, plans, specifications, estimates, and supervision of construction of projects for such urgent improvements of highways strategically important from the standpoint of the national defense as may be undertaken on the order of the Secretary and as the result of request of the Secretary of Defense or such other official as the President may designate. With the consent of a State, funds made available under subsection [(b)] *(d)* of section 104 of this title may be used to the extent deemed necessary and advisable by the Secretary to carry out the provisions of this section.

* * * * * * *

Sec. 315. Rules, regulations, and recommendations.

Except as provided in sections [204(d), 205(a), 206(b), 207(b) and 208(c)] *204(f) and 205(a)* of this title, the Secretary is authorized to prescribe and promulgate all needful rules and regulations for the carrying out of the provisions of this title. The Secretary may make such recommendations to the Congress and State highway departments as he deems necessary for preserving and protecting the highways and insuring the safety of traffic thereon.

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Sec. 319. Landscaping and scenic enhancement.

(a) The Secretary may approve as a part of the construction of Federal-aid highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scienc beauty adjacent to such highways.

(b) The Secretary shall require the planting of native wildflower seeds and/or seedlings as part of any landscaping project under this section. At least one-quarter per centum of the funds expended for landscaping projects shall be used for such plantings. The requirements of this subsection may be waived by the Secretary if the State certifies that such native wildflowers or seedlings cannot be grown satisfactorily or planting areas are limited or otherwise used for agricultural purposes. Nothing in this subsection shall be construed to prohibit the acceptance of native wildflower seeds or seedlings do-

nated by civic organizations or other organizations and individuals to be used in landscaping projects.

* * * * * * *

Sec. 321. National Highway Institute.

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[(b) Not to exceed one-half of 1 per centum of all funds apportioned for any fiscal year beginning after June 30, 1970, to any State under paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for expenditure by the State highway department, subject to approval by the Secretary, for payment of not to exceed 75 per centum of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

[(c) Education and training of Federal, State, and local highway employees authorized by this section may be provided by the Secretary, or, in the case where such education and training is to be paid for under subsection (b) of this section, by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, institutions, and individuals.]

(b) Not to exceed one-quarter per centum of all Federal-aid Interstate-primary program funds, apportioned to a State under section 104 of this title shall be available for expenditure by the State highway department, subject to approval by the Secretary, for payment of not to exceed 75 per centum of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

(c) Education and training of Federal, State, and local highway employees authorized by this section shall be provided by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility, or, in the case where such education and training is to be paid for under subsection (b) of this section, by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, institutions, individuals and the Institute.

* * * * * * *

Sec. 323. Donations.

(a) Nothing in this title, or in any other provisions of law, shall be construed to prevent a person whose real property is being acquired in connection with a project under this title, after he has been fully informed of his right to receive just compensation for the acquisition of his property, from making a gift or donation of such property, or any part thereof, or of any of the compensation paid therefor, to a Federal agency, a State or a State agency, or a political subdivision of a State, as said person shall determine.

(b)(1) A gift or donation in accordance with subsection (a) may be made at any time during the development of a project: Provided, That any document executed as part of such donation prior to the

approval of an environmental document prepared pursuant to the National Environmental Policy Act shall clearly indicate that—

(i) all alternatives to a proposed alignment will be studied and considered pursuant to the National Environmental Policy Act;

(ii) acquisition of property under this subsection shall not influence the environmental assessment of a project including the decision relative to the need to construct the project or the selection of a specific location; and

(iii) any property acquired by gift or donation shall be revested in the grantor or successors in interest if such property is not required for the alignment chosen after public hearings and completion of the environmental document.

Chapter 4.—HIGHWAY SAFETY

Sec.

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409. Reports, surveys, etc., disclosure; admission as evidence.

Sec. 401. Authority of the Secretary.

The Secretary is authorized and directed to assist and cooperate with other Federal departments and agencies, State and local governments, private industry, and other interested parties, to increase highway safety. For the purposes of this chapter, the term "State" means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, [and American Samoa.] *American Samoa and the Commonwealth of the Northern Mariana Islands.*

Sec. 402. Highway safety programs.

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(c) Funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom. Such funds shall be subject to a dedication not to exceed 5 per centum for the necesary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States. [For the fiscal years ending June 30, 1967, June 30, 1968, and June 30, 1969, such funds shall be apportioned 75 per centum on the basis of population and 25 per centum as the Secretary in his administrative discretion may deem appropriate and thereafter such] *Such* funds shall be apportioned 75 per centum in the ratio which the population of each State bears to the total population of all of the States, as shown by the latest available Federal census, and 25 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. For the purposes of this subsection, a "public road" means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceeding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to aproval by the Secretary. The annual apportionment to each State shall not be less than one-half of 1 per centum of the total apportionment, except that the apportionments to the Virgin Islands, Guam, [and American Samoa] *American Samoa and the Commonwealth of the Northern Mariana Islands* shall not be less than one-quarter of 1 per centum of the total apportionment. [After December 31, 1969, the] *The* Secretary shall not apportion any funds under the subsection to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section. For the purpose of the seventh sentence of this subsection, a high way safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforing any law, rule, or regulation based on a standard promulgated by the Secretary under this section requiring any motorcycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State. Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform standard, or with every element of every uniform standard, in every State. Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 50 per centum of the amounts that would otherwise be apportioned to the State under this section, until such times as the Secretary approved such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction. The Secretary shall promptly apportion to the State the funds withheld from its apportionment if he approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in this subsection not later than 30 days after such determination.

* * * * * * *

(j) The Secretary of Transportation shall, not later than September 1, 1981, begin a rulemaking process to determine those programs most effective in reducing accidents, injuries, and deaths. Such rule shall be promulgated taking into account consideration of the States having a major role in establishing these programs. Not later than April 1, 1982, the Secretary shall promulgate a final rule establishing those programs determined most effective in reducing accidents, injuries, and deaths. Before such rule shall take effect, it shall be transmitted to Congress. If such rule is not transmitted by April 1, 1982, it shall not take effect before October 1, 1983. If such rule is transmitted by April 1, 1982, it shall take effect October 1, 1982, unless before June 1, 1982, either House of Congress by resolution disapproves such rule. If such rule is disapproved by either House of Congress, the Secretary shall not apportion or obligate any amount authorized to carry out this section for the fiscal year ending September 30, 1983, or any subsequent fiscal year, unless specifically authorized to do so by a statute enacted after the date of enactment of the Omnibus Budget Reconciliation Act of 1981. When a rule promulgated in accordance with this subsection takes effect, only those programs established by such rule as most effective in reducing accidents, injuries, and deaths shall be eligible to receive Federal financial assistance under this [chapter] *section.*

* * * * * * *

Sec. 409. Reports, surveys, etc.; disclosure; admission as evidence.

Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled with the purpose of identifying, evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or rail-highway crossing, pursuant to sections 130, 144, 152 and 402 of title 23, United States Code, or for the development of any highway safety improvement project which may be implemented utilizing Federal-aid highway funds, shall not be required to be made available pursuant to section 552 of title 5, United States Code, nor shall they be admitted into evidence in Federal or State court, or considered for other purposes, in any action for damages arising from any occurrence at a location mentioned or addressed in such reports, surveys, schedules, lists or data.

FEDERAL-AID HIGHWAY ACT OF 1956—Title I

Public Law 627, 84th Cong., June 29, 1956, 70 Stat. 374

AN ACT To amend and supplement the Federal-Aid Road Act approved July 11, 1916, to authorize appropriations for continuing the construction of highways; to amend the Internal Revenue Code of 1954 to provide additional revenue from the taxes on motor fuel, tires, and trucks and buses; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

Sec. 108. National System of Interstate and Defense Highways.

* * * * * *

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of expediting the construction, reconstruction, or improvement, inclusive of necessary bridges and tunnels, of the Interstate System, including extensions thereof through urban areas, designated in accordance with the provisions of subsection (d) of section 103 of title 23, United States Code, there is hereby authorized to be appropriated the additional sum of $1,000,000,000 for the fiscal year ending June

30, 1957, which sum shall be in addition to the authorization heretofore made for that year, the additional sum of $1,700,000,000 for the fiscal year ending June 30, 1958, the additional sum of $2,200,000,000 for the fiscal year ending June 30, 1959, the additional sum of $2,500,000,000 for the fiscal year ending June 30, 1960, the additional sum of $1,800,000,000 for the fiscal year ending June 30, 1961, the additional sum of $2,200,000,000 for the fiscal year ending June 30, 1962, the additional sum of $2,400,000,000 for the fiscal year ending June 30, 1963, the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1964, the additional sum of $2,700,000,000 for the fiscal year ending June 30, 1965, the additional sum of $2,800,000,000 for the fiscal year ending June 30, 1966, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1967, the additional sum of $3,400,000,000 for the fiscal year ending June 30, 1968, the additional sum of $3,800,000,000 for the fiscal year ending June 30, 1969, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1970, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1971, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1972, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1973, the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1974, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1975, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1976, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1978, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1979, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1980, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1981, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1982, the additional sum of $3,100,000,000 for the fiscal year ending September 30, 1983, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1984, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1985, the additional sum of $4,000,000,000 for the fiscal year ending September 30 1986, *and* the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1987. [and the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1990.] Nothing in this subsection shall be construed to authorize the appropriation of any sums to carry out sections 131, 136, or 319(b) of title 23, United States Code, or any provision of law relating to highway safety enacted after May 1, 1966. Beginning with funds authorized to be appropriated for fiscal year 1980, no such funds shall be available for projects to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967. Effective on and after the date of enactment of this sentence, the obligation of funds authorized by this subsection, except for advance construction interstate projects approved before the date of enactment of this sentence, shall be limited to the construction necessary to provide a minimum level of acceptable service on the Interstate System which shall consist of (1) full access control; (2) a pavement design to accommodate the types and volume of traffic anticipated for the twenty-year period from date of authorization of the initial basic construction contract; (3) essential environmental requirements; (4) a design of not more than six lanes (exclusive of high occupancy vehicle lanes) in rural areas and all urbanized areas under four hundred thousand population, and up to eight lanes (exclusive of high occupancy vehicle lanes) in urbanized areas of four hundred thousand population or more as shown in the 1980 Federal census; and (5) those high occupancy vehicle lanes (including approaches and all directly related facilities) included in the interstate cost estimate for fiscal year 1981. The obligation of funds authorized by this subsection shall be further limited to the actual costs of only those design concepts, locations, geometrics, and other construction features included in the 1981 interstate cost estimate, except in any case where the Secretary of Transportation determines that a provision of Federal law requires a different design, location, geometric, or other construction feature of a type authorized by this subsection. For purposes of this subsection, construction necessary to provide a minimum level of acceptable service on the Interstate System shall include, but not be limited to, any construction on the Interstate System which is required under a court order issued before the date of enactment of this sentence. Notwithstanding any other provision of law, including any other provision of this subsection, where a project is to be constructed (1) to provide parking garage ramps in conjunction with high occupancy vehicle lanes which flow into a distributor system emptying directly into ramps for off-street parking with preferential parking for carpools, vanpools, and buses and the ramps are part of an environmental mitigation effort and are designed to feed into an aerial walkway system, or (2) to provide a parking lot near the terminus of an Interstate System spur route which radiates from an Interstate System beltway which will be used as an intermodal transfer facility for a light rail transit project to be constructed in the median of the spur route and the parking lot is part of an environmental mitigation effort, or (3) to provide a parking garage and associated facilities as part of an intermodal transfer facility with a transit system near or within an Interstate System route right-of-way which will have direct and indirect access to the facility by way of local streets and the parking garage and associated facilities are part of an environmental mitigation effort, or (4) to provide for the comprehensive upgrading of existing high occupancy vehicle lanes, new ramps and parking facilities at mass transit intermodal transfer points on an existing Interstate System route which has temporary high occupancy vehicle lanes in the median and the parking facilities and ramps are part of an environmental mitigation effort, the costs of such parking garage ramps, parking lots, parking garages, associated interchange ramps, high occupancy vehicle lanes, and other associated work eligible under title 23, United States Code, shall be eligible for funds authorized by this subsection as if the costs for these projects were included in the 1981 interstate cost estimate and shall be included as eligible projects in any future interstate cost estimate.

FEDERAL-AID HIGHWAY ACT OF 1973

Public Law 93–87, 93d Cong., Aug. 13, 1973, 87 Stat. 250

AN ACT To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

* * * * * * *

Sec. 133. Study of toll bridge authority. ***Repealed.***

* * * * * * *

Sec. 163. Demonstration project—railroad-highway crossings.

* * * * * * *

[(o) The Secretary shall make biennial reports and a final report to the President and the Congress with respect to his activities pursuant to this section.]

(o) The Secretary of Transportation shall make biennial reports and a final report to the President, the Senate Committee on Environment and Public Works, and the House Committee on Public Works and Transportation with respect to activities pursuant to this section.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1973".

* * * * * * *

Sec. 203. Rail-highway crossings. ***Repealed.***

FEDERAL-AID HIGHWAY ACT OF 1978

Public Law 95–599, 95th Cong., Nov. 6, 1978

AN ACT To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Transportation Assistance Act of 1978".

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1978".

* * * * * * *

INTERSTATE SYSTEM RESURFACING

SEC. 105. In addition to any other funds authorized to be appropriated, there is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1980 and September 30, 1981, and not to exceed $275,000,000 for the fiscal year ending September 30, 1982, not to exceed $800,000,000 for the fiscal year ending September 30, 1983, not to exceed $1,950,000,000 for the fiscal year ending September 30, 1984, not to exceed $2,400,000,000 for the fiscal year ending September 30, 1985, not to exceed $2,800,000,000 for the fiscal year ending September 30, 1986, and not to exceed $3,150,000,000 for the fiscal year ending September 30, 1987. Such sums shall be obligated for projects for resurfacing, restoring, and rehabilitating those lanes on the Interstate System which have been in use for more than five years and which are not toll roads, except that where a State certifies to the Secretary that any part of such sums are excess to the needs of such State for resurfacing, restoring or rehabilitating Interstate System lanes and the Secretary accepts such certification, such State may transfer sums apportioned to it under section 104(b)(5)(B) to its apportionment under section 104(b)(1). [Such sums may also be obligated for projects for resurfacing, restoring, and rehabilitating lanes in use for more than five years on a toll road which has been designated as a part of the Interstate System if an agreement satisfactory to the Secretary of Transportation has been reached with the State highway department and any public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections. The agreement referred to in the preceding sentence shall contain a provision requiring that if, for any reason, a toll road receiving Federal assistance under this section does not become free to the public upon collection of sufficient tolls, as specified in the preceding sentence, Federal funds used for projects on such toll road pursuant to this section shall be repaid to the Federal Treasury.]

* * * * * * *

ENFORCEMENT OF VEHICLE WEIGHT LIMITATIONS

SEC. 123. (a) Not later than the one-hundred-eightieth day after the date of enactment of this section, the Secretary of Transportation, hereunder referred to as the "Secretary", in consultation with each State shall inventory the existing system of penalties for violations of vehicle weight laws, rules, and regulations on any portion of any Federal-aid system in such State. Each State shall annually thereafter report to the Secretary its current inventory.

(b)(1) No later than the one-hundred-eightieth day after the date of enactment of this section, the Secretary, in consultation with each State, shall inventory the existing system in such State for the issuance of special permits. Each State shall annually thereafter report to the Secretary its current inventory.

(2) For purposes of this subsection, the term "special permit" means a license or permit issued pursuant to State law, rule, or regulation which authorizes a vehicle to exceed the weight limitation for such vehicle established under State law, rule, or regulation.

(c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section and each calendar year thereafter the Secretary shall submit to [Congress] *the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation* an annual report together with such recommendations as the Secretary deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits required by subsection (b) of this section; (3) the annual certification submitted by each State required by section 141(b) of title 23, United States Code.

(e) Section 141(c) (2) and (3) of title 23, United States Code, shall be applicable to certifications required by such section 141 to be filed on or after January 1, 1980.

HIGHWAY IMPROVEMENT ACT OF 1982

Public Law 97-424, 97th, Cong. Jan. 6, 1983

AN ACT To authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Transportation Assistance Act of 1982".

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Highway Improvement Act of 1982".

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Sec. 105.—Authorizations. ***Repealed.***

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FEDERAL-AID PRIMARY FORMULA

SEC. 108. * * *

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(d) Notwithstanding any other provision of law, no State shall receive an apportionment under this section for any fiscal year which is less than the lower of (1) the amount which the State would be apportioned for such fiscal year under section 104(b)(1) of title 23, United States Code, and (2) the amount which would be determined under the formula set forth in subsection (a). Notwithstanding any other provision of law, no State shall receive for any such fiscal year less than one-half of 1 per centum of the total apportionment under this section for such fiscal year. For purposes of this paragraph and subsection (b) of section 103 [of this title,] *title 23, United States Code,* the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered together as one State. The State consisting of the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not receive less than one-half of 1 per centum of each year's apportionment. There are authorized to be appropriated such sums as may be necessary out of the Highway Trust Fund to carry out this subsection. Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

* * * * * * *

USE OF HIGH OCCUPANCY LANES

SEC. 163. Notwithstanding any provision of this Act or any other law, no funds shall be [appropriated] *apportioned* for the construction or resurfacing of Federal aid highways which have lanes designated as carpool lanes unless the use of such lanes includes use by motorcycles. Upon certification by the State to the Secretary of Transportation, the State may restrict such use by motorcycles if such use would create a safety hazard.

* * * * * * *

BUY AMERICA

SEC. 165. (a) [Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978 and administered by the Department of Transportation, unless steel and manufactured products used in such project are produced in the United States.] *Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry* *out this Act, title 23, United States Code, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978 and administered by the Department of Transportation, whose total cost exceed $500,000, unless steel and manufactured products used in such projects are produced in the United States.*

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REGULATION OF TOLLS

BRIDGES OVER NAVIGABLE WATERS

GENERAL BRIDGE ACT OF 1906

33 U.S.C., secs. 491–498

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Sec. 494. Obstruction of navigation; alterations and removals; lights and signals; draws; tolls.

No bridge erected or maintained under the provisions of sections 491–498 of this title, shall at any time unreasonably obstruct the free navigation of the waters over which it is constructed, and if any bridge erected in accordance with the provisions of said sections, shall, in the opinion of the Secretary of the Army, at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span, or otherwise, or if there be difficulty in passing the draw opening or the drawspan of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary of Transportation, after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made, and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes so required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of said sections; and all such alterations shall be made and all such obstructions shall be removed at the expense of the persons owning or operating said bridge. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Commandant of the Coast Guard shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water crafts. [If tolls shall be charged for the transit over any bridge constructed under the provisions of said sections, of engines, cars, street cars, wagons, carriages, vehicles, animals, foot passengers, or other passengers, such tolls shall be reasonable and just, and the Secretary of Transportation may, at any time, and from time to time, prescribe the reasonable rates of toll for such transit over such bridge, and the rates so prescribed shall be the legal rates and shall be the rates demanded and received for such transit.] (Mar. 23, 1906, ch. 1130,

§ 4, 34 Stat. 85; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat 1097 and as amended Jan. 12, 1983, Pub. L. 97-449, § 2(d)(1), 96 Stat. 2440.)

* * * * * * *

Sec. 498a. [Application of sections 491–497 to bridges authorized prior to June 10, 1930.] ***Repealed.***

Sec. 498b. [Application of sections 491–497 to bridges authorized prior to March 23, 1906.] ***Repealed.***

* * * * * * *

ACT OF AUGUST 21, 1935, AS AMENDED, 33 U.S.C. SECS. 503–507

Sec. 503. [Tolls; reasonableness; bridges to which provisions not applicable.] ***Repealed.***

Sec. 504. [Same; determination of reasonableness by Secretary of Transportation; effect of order prescribing toll.] ***Repealed.***

Sec. 505. [Same; review of order.] ***Repealed.***

Sec. 506. [Same; hearings to determine reasonableness; attendance of witnesses; punishment for failure to attend.] ***Repealed.***

Sec. 507. [Same; failure to obey order prescribing toll; punishment.] ***Repealed.***

GENERAL BRIDGE AUTHORITY

GENERAL BRIDGE ACT OF 1946

33 U.S.C., secs. 525–533

* * * * * * *

Sec. 526. [Amount of tolls.] ***Repealed.***

* * * * * * *

Sec. 529. [Sinking funds; rates of tolls: cancellation of tolls.] ***Repealed.***

Sec. 530. Bridges included [and excluded].

[The provisions of sections 525–533 of this title shall apply only to bridges over navigable waters of the United States, the construction of which is approved after August 2, 1946, under the provisions of said sections; and the provisions of the first proviso of section 401 of this title, and the provisions of sections 491–498 of this title, shall not apply to such bridges. (Aug. 2, 1946, ch. 753, title V, §507, 60 Stat. 849.)]

The provisions of section 525 of this title shall apply to bridges over the navigable waters of the United States constructed under the authority of said section and to all bridges heretofore constructed under authority granted by Congress, notwithstanding any conflicting toll provisions or other provisions in any Act authorizing the construction of such a bridge.

INTERNATIONAL BRIDGES

INTERNATIONAL BRIDGE ACT OF 1972

33 U.S.C. secs. 535, 535a–535i

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Sec. 535d. [Tolls, collection methods; annual report; audit.] *Repealed.*

UNIFORM REAL PROPERTY ACQUISITION POLICY

42 U.S.C., 4651

UNIFORM POLICY ON REAL PROPERTY ACQUISITION POLICY

SECTION 4651. In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the many Federal programs, *to promote joint projects between States and landowners and other entities in order to maximize Federal and State dollars,* and to promote public confidence in Federal land acquisition practices, heads of Federal agencies shall, to the greatest extent practicable, be guided by the following policies:

(1) The head of a Federal agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner of his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(3) Before the initiation of negotiations for real property, the head of the Federal agency concerned shall establish an amount which he believes to be just compensation therefor and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The head of the Federal agency concerned shall provide the owner of real property to be acquired with a written statement

of, and summary of the basis for, the amount he established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the head of the Federal agency concerned pays the agreed purchase price, or deposits with the court in accordance with section 1 of the Act of February 26, 1931 (46 Stat. 1421; 40 U.S.C. 258a), for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for such property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by title II will be available), or to move his business or farm operation, without at least ninety days' written notice from the head of the Federal agency concerned, of the date by which such move is required.

(6) If the head of a Federal agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to terminations by the Government on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the head of a Federal agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

(8) If any interest in real property is to be acquired by exercise of the power of eminent domain, the head of the Federal agency concerned shall institute formal condemnation proceedings. No Federal agency head shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the head of the Federal agency concerned shall offer to acquire the entire property.

(10) Promotion of joint projects wherein private citizens and other government entities participate in the cost through land donations and/or financial contributions is consistent with Federal policy and should be encouraged by all Federal agencies. To this end donations of right-of-way and/or financial contributions by a State or other political subdivision, or any person is permissible.

DEPARTMENT OF TRANSPORTATION ACT—49 U.S.C.

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Sec. 1655. Transfer of functions

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(g) Department of Army; functions, powers, and duties of Secretary of Army relating to water vessel anchorages, drawbridge operating regulations, obstructive bridges, tolls, prevention of pollution of sea by oil, and location and clearance of bridges and causeways on navigable waters.

There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army under—

(1) to (3) Repealed. Pub. L. 97-449, § 7(b), Jan. 12, 1983, 96 Stat. 2444.

[(4) the following laws and provisions of law relating generally to the reasonableness of tolls:

[(A), (B) Repealed. Pub. L. 97-449, § 7(b), Jan. 12, 1983, 96 Stat. 2444.

[(C) Section 17 of the Act of June 10, 1930, as amended.

[(D) The Act of June 27, 1930, as amended.

[(E) Repealed. Pub. L. 97-449, § 7(b), Jan 12, 1983, 96 Stat. 2444.] *Repealed.*

(5), (6) Repealed. Pub. L. 97-449, § 7(b), Jan. 12, 1983, 96 Stat. 2444.

INTERNAL REVENUE CODE OF 1954

26 U.S.C. 4082

Sec. 4082. Definitions.

(a) PRODUCER.—As used in this subpart, the term "producer" includes a refiner, compounder, [blender, or wholesale distributor] *or blender,* and a dealer selling gasoline exclusively to producers of gasoline, as well as a producer. Any person to whom gasoline is sold tax-free under this subpart shall be considered the producer of such gasoline.

(b) GASOLINE.—As used in this subpart, the term "gasoline" means all products commonly or commercially known or sold as gasoline which are suitable for use as a motor fuel.

(c) CERTAIN USES DEFINED AS SALES.—If a producer or importer uses (otherwise than in the production of gasoline or of special fuels referred to in section 4041) gasoline sold to him free of tax, or produced or imported by him, such use shall for the purposes of this chapter be considered a sale.

[(d) WHOLESALE DISTRIBUTOR.—As used in subsection (a), the term "wholesale distributor" includes—

[(1) any person who—

[(A) sells gasoline to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks, or

[(B) purchases gasoline from a producer and distributes such gasoline to 10 or more retail gasoline stations under common management with such person,

[(2) but only if such person elects to register with respect to the tax imposed by section 4081.

[Such term does not include any person who (excluding the term "wholesale distributor" from subsection (a)) is a producer or importer.]

[(e)] *(d)* CERTAIN SELLERS OF GASOLINE FOR USE IN NONCOMMERCIAL AVIATION TREATED AS PRODUCERS.—For purposes of this subpart, the term "producer" includes any person who regularly sells gasoline to owners, lessees, or operators of aircraft for use as fuel in such aircraft in noncommercial aviation (as defined in section 4041(c)(4)).

○